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UNLESS WRITTEN NOTIFICATION OF INTENT TO ATTEND
A PUBLIC HEARING IS RECEIVED BY THE PROMULGATING
AGENCY AT LEAST FIVE (5) DAYS BEFORE THE HEARING
DATE, THE HEARING MAY BE CANCELLED.

MEETING NOTICE: The next meeting of the Administrative Regulation
Review Subcommittee is February 11 and 12, 1985. For information, call
502-564-8100, ext. 535.

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Title	Chapter	Regulation
806	KAR 50 :	155
Cabinet, Department, Board or Agency	Bureau, Division, or Major Function	Specific Area of Regulation

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PUBLIC HEARINGS

The administrative body shall schedule a public hearing on proposed administrative regulations, proposed amendments to administrative regulations, and proposed repeal of administrative regulations to be held not less than twenty (20) nor more than thirty (30) days following publication of the administrative regulation. The time, date, and place of the hearing and the name and address of the agency contact person shall be included on the last page of the administrative regulation when filed with the Compiler's office.

This information shall be published in the "Administrative Register" at the same time as the initial publication of the administrative regulation. Any person interested in attending the hearing must submit written notification of such to the administrative body at least five (5) days before the scheduled hearing. If no written notice is received at least five (5) days before the hearing, the administrative body may cancel the hearing.

If the hearing is cancelled, the administrative body shall notify the Compiler immediately by telephone of the cancellation with a follow-up letter and the Compiler will note upon the face of the original administrative regulation that the hearing was cancelled.

No transcript of the hearing need be taken unless a written request for a transcript is made, and the person requesting the transcript shall have the responsibility of paying for same. A recording may be made in lieu of a transcript.

If an administrative body has several proposed administrative regulations published at the same time, the proposed administrative regulations may be grouped at the convenience of the administrative body for purposes of hearings.

EMERGENCY REGULATIONS NOW IN EFFECT

(NOTE: Emergency regulations expire 90 days from publication or upon replacement or repeal.)

STATEMENT OF EMERGENCY

The Kentucky Board of Medical Licensure is charged with the responsibility of assuring that the physicians who become licensed in the Commonwealth are well-trained and competent to pursue their profession. This board, along with medical boards in other states, is confronted with applications from persons who are graduates of foreign medical schools, but who satisfied some of their clinical training requirements for graduation in the United States. Because the board has no mechanism for assuring the quality of this training, the board deems it essential that a regulation be implemented that requires a substantial amount of this training to be under circumstances substantially similar to those under which American medical students receive clinical training.

Because the board is regularly confronted with applications from foreign medical graduates who received some clinical training in the United States, it is essential that this regulation be made effective as soon as possible. Because of the time delay in approval of an ordinary regulation, the board would be forced to review credentials which they cannot adequately evaluate without this regulation. However, an ordinary regulation identical to this emergency regulation has been submitted and will replace the emergency regulation upon passage.

It is requested on behalf of the Kentucky Board of Medical Licensure that this emergency regulation be made effective immediately.

MARTHA LAYNE COLLINS, Governor
Commonwealth of Kentucky
C. WILLIAM SCHMIDT, Secretary
Board of Medical Licensure

FINANCE AND ADMINISTRATION CABINET
Kentucky State Board of Medical Licensure

201 KAR 9:021E. Medical and osteopathic schools approved by the board; denial or withdrawal of approval; application of KRS 311.271; postgraduate training requirements; approved programs; recognition of degrees.

RELATES TO: KRS 311.530 to 311.620, 311.990, 311.271

PURSUANT TO: KRS 311.565

EFFECTIVE: July 12, 1984

NECESSITY AND FUNCTION: KRS 311.565 empowers the State Board of Medical Licensure to exercise all the administrative functions of the state in the prevention of empiricism and in the regulation of the practice of medicine and osteopathy and authorizes the board to establish requirements and standards relating thereto. The purpose of this regulation is to establish standards for approval of medical and osteopathic schools, colleges and universities in regard to the issuance and renewal of licenses and permits to practice medicine or osteopathy in the Commonwealth. The further purpose of this regulation is to assure that physicians obtain sufficient postgraduate training to enable them to practice with competency within the Commonwealth.

Section 1. Approval Necessary for Licensure. An applicant shall not obtain or retain any license or permit issued by the board unless and until the applicant provides sufficient proof that he or she is a graduate of a medical or osteopathic school, college or university which has been approved by the board. An applicant for limited licensure-institutional practice pursuant to KRS 311.571(4) may, however, be granted such licensure without the board's prior approval of the medical or osteopathic school, college or university upon sufficient proof that the particular school does exist and the applicant is a graduate thereof. No other license or permit issued pursuant to any other statutory or regulatory provision shall be issued unless and until the applicant's medical or osteopathic school, college or university has been fully approved. The school approval requirement will not be excused because information concerning the school is not readily ascertainable.

Section 2. Medical and Osteopathic Schools Located Within the United States or Canada. Unless approval is denied or withdrawn pursuant to Section 4 of this regulation, all medical and osteopathic schools, colleges and universities located in the United States or Canada are approved in regard to the issuance and renewal of licenses and permits upon written proof that the particular institution is:

- (1) Located in the United States, its territories and protectorates and approved/accredited by the Liaison Committee on Medical Education (LCME) or the American Osteopathic Association; or
- (2) Located in Canada and approved/accredited by the Canadian Medical Association.

Section 3. Medical and Osteopathic Schools Located Outside the United States and Canada. Unless approval is denied or withdrawn pursuant to Section 4 of this regulation, all medical and osteopathic schools located outside the United States and Canada are approved in regard to the issuance and renewal of licenses and permits upon written proof that the particular institution is:

- (1) Officially recognized in good standing by the country in which the school, college or university is located;
 - (2) Registered as a medical school, college or university in either the World Health Organization directory or the World Directory of Medical Schools; and
 - (3) Possesses a basic course of clinical and classroom medical instruction of not less than thirty-two (32) months in length that is conducted under the direct authority of the medical school, college or university.
- Approval of an institution under this section should be considered in conjunction with the other requirements for licensure of graduates of medical schools, colleges and universities located outside the United States and Canada. Approval under this section should not be interpreted as a statement by the board that the particular institution is equivalent to institutions approved pursuant to Section 2 of this regulation.

Section 4. Denial or Withdrawal of Approval. The board, in its discretion, may deny or

withdraw approval of any medical or osteopathic school if the particular school, college or university fails to meet the requirements for approval as established in the preceding sections or if, in the board's opinion, the approval of the particular school, college or university would not be in the best interests of the Commonwealth. If approval is denied or withdrawn the board shall issue an order delineating the grounds upon which denial or withdrawal of approval is based.

Section 5. Recognition of Degrees. The board hereby takes notice that there are medical schools located outside the United States and Canada which allow students to satisfy clinical requirements of the medical school's curriculum by performing clinical clerkships in the United States. It is the board's position that such clerkships should be of a character and quality equal to those performed in the United States by students in American medical and osteopathic schools. In order to assure that the clerkships performed in this country by students enrolled in foreign medical schools are to a substantial degree equivalent to the clinical training being received by medical students in this country, the applicant must demonstrate that the clerkships meet the following standards:

(1) Each clerkship must have been evaluated and approved prior to commencing in accord with the foreign school's established standards for approval of clerkships performed in the United States.

(2) Seventy-five (75) percent of the clerkships performed in the United States must have been performed in hospitals that:

(a) Possess accreditation by the Joint Commission on Accreditation of Hospitals;

(b) Have residencies in the subject area of the clerkship approved by the Accreditation Council on Graduate Medical Education; and

(c) Have affiliation with a medical school located in the United States.

The board will not recognize the degree of any applicant who cannot demonstrate that the clerkships he performed in the United States met the above standards. Licensure will not be granted unless the board recognizes the applicant's degree.

Section 6 [5]. Application of KRS 311.271. (1) An applicant shall not obtain any license or permit issued by the board unless and until the applicant provides written proof that he or she has been credited with not less than sixty (60) transferable units of study by a college or university accredited by the Southern Association of Colleges and Schools or an accrediting agency recognized by the Southern Association of Colleges and Schools; provided, however, that the executive director may determine the equivalency of premedical or preosteopathic units of study credited by a college or university located outside the United States or Canada on an individual basis.

(2) It is the declared policy of the Commonwealth that a physician, who becomes initially enrolled in a school of medicine or osteopathy after June 13, 1968, should not be authorized to practice medicine or osteopathy in this state unless and until the physician can provide satisfactory evidence that he or she has fulfilled the premedical or preosteopathic

undergraduate requirement delineated in subsection (1) of this section. Therefore, the board will not issue any license or permit to an applicant except upon the fulfillment of this requirement.

Section 7 [6]. Hearings. The board, in its discretion, may direct that formal or informal hearings be held in connection with the approval, denial of approval or withdrawal of approval of any medical or osteopathic school, college or university, or in the determination of qualification pursuant to KRS 311.271.

Section 8 [7]. Amount of Postgraduate Training Required. (1) All applicants for regular licensure who are graduates of medical and osteopathic schools located within the United States or Canada shall provide written proof of having completed one (1) full year of postgraduate training approved by the board.

(2) All applicants for regular licensure who are graduates of medical and osteopathic schools located outside the United States and Canada shall provide written proof of having completed three (3) full years of postgraduate training approved by the board.

(3) All applicants for limited licensure-institutional practice shall provide written proof of having completed one (1) full year of postgraduate training approved by the board.

Section 9 [8]. Postgraduate Training Programs Approved by the Board. (1) All postgraduate training programs in hospitals and institutions located in the United States and approved by the Accreditation Council for Graduate Medical Education (ACGME) are approved by the board in regard to the fulfillment of the postgraduate training requirement for licensure.

(2) All postgraduate training programs in hospitals and institutions located in Canada and approved by the Canadian Medical Association or the Royal College of Physicians and Surgeons of Canada are approved by the board in regard to the fulfillment of the postgraduate training requirement for licensure.

(3) All postgraduate training programs in hospitals and institutions located in the United States or Canada and approved by the American Osteopathic Association are approved by the board in regard to the fulfillment of the postgraduate training requirement for licensure.

Section 10 [9]. Fellowship Training in the United States or Canada. The board will consider on an individual basis written proof of satisfactory completion of fellowship training recognized by the board to be of satisfactory quality as substitution for the second or third year of required postgraduate training approved by the board pursuant to this regulation.

Section 11 [10]. Repeal of Regulations. The following regulations of the board are hereby repealed: 201 KAR 9:020, 201 KAR 9:060, 201 KAR 9:080 and 201 KAR 9:085.

C. WILLIAM SCHMIDT
Executive Director

APPROVED BY AGENCY: November 15, 1984

FILED WITH LRC: December 14, 1984 at 3 p.m.

STATEMENT OF EMERGENCY

Under KRS Chapter 13A the administrative body is required to implement this regulation or not have the authority to operate. Therefore, in order to continue to operate the Cabinet for Human Resources in accordance with KRS Chapter 194, the Cabinet for Human Resources needs to implement this emergency regulation. An ordinary administrative regulation cannot suffice since no administrative regulations have been filed with respect to this subject matter previously. This emergency regulation will be replaced by an ordinary administrative regulation in accordance with House Bill 334.

MARTHA LAYNE COLLINS, Governor
E. AUSTIN, JR., Secretary

CABINET FOR HUMAN RESOURCES Department for Social Insurance Division of Management and Development

904 KAR 1:004E. Resource and income standard of medically needy.

RELATES TO: KRS 205.520

PURSUANT TO: KRS 194.050

EFFECTIVE: January 9, 1985

NECESSITY AND FUNCTION: The Cabinet for Human Resources has responsibility to administer the program of Medical Assistance in accordance with requirements of Title XIX of the Social Security Act. KRS 205.520(3) empowers the cabinet, by regulation, to comply with any requirement that may be imposed or opportunity presented by federal law for the provisions of medical assistance to Kentucky's indigent citizenry. This regulation sets forth the resource and income standards by which eligibility of the medically needy is determined.

Section 1. Resource Limitations and Exclusions of the Medically Needy. The following provisions are applicable with regard to computation of allowable resources:

(1) The upper limit for resources is \$1,600 [\$1,500] for family size of one (1), \$3,200 [\$3,000] for family size of two (2), and fifty (50) dollars for each additional member.

(2) A homestead, occupied or abandoned, household equipment, and farm equipment without limitation on value are excluded from consideration.

(3) Equity of \$6,000 in income-producing, non-homestead real property, business or non-business, essential for self-support, is excluded from consideration. In addition, the value of otherwise countable real property (whether income producing or non-income producing) may be excluded from consideration for six (6) months if a good faith effort is being made to dispose of the property properly; an additional three (3) months may be allowed for the disposal at the request of the recipient if efforts to dispose of the property within the six (6) month period have been unsuccessful.

(4) Equity of \$4,500 in automobiles is excluded from consideration; however, if an automobile is used for employment, to obtain medical treatment of a specific or regulation medical problem, or if specially equipped (e.g., as for use by the handicapped) the total value of such automobile is excluded.

(5) Burial reserves of up to \$3,000 [\$1,500] per individual, which may be in the form of burial agreement(s), prepaid burials or similar arrangements, trust fund(s), [or] life insurance policies, or other separate and identifiable funds are excluded from consideration. The cash surrender value of life insurance is considered when determining the total value of burial reserves. When burial funds are commingled with other funds, the applicant has up to thirty (30) days to un-commingle the burial reserve amount.

(6) [Burial agreements (pre-paid burials or similar arrangements) and] Burial spaces, plots, or vaults are excluded from consideration as a countable resource without regard to value.

(7) Resources determined in accordance with subsections (3), (4), and (5) of this section to be in excess of excluded amounts must be considered countable resources when determining whether the individual or family group exceeds the upper limits specified in subsection (1) of this section. If resources exceed the upper limits, the individual or family group is ineligible.

(8) The following exclusions are also applicable as stated:

(a) Proceeds from the sale of a home are excluded from consideration for three (3) months from date of receipt if used to purchase another home.

(b) Resources of a blind or disabled person necessary to fulfill an approved plan for achieving self-support are excluded from consideration.

(c) Payments or benefits from federal statutes, other than Title XVI (Supplemental Security Income), are excluded from consideration (as either a resource or income) if precluded from consideration in Title XVI determinations of eligibility by the specific terms of the statute.

(d) Disaster relief assistance is excluded from consideration.

(e) Cash or in-kind replacement for repair or replacement of an excluded resource is excluded from consideration if used to repair or replace the excluded resource within nine (9) months of the date of receipt.

Section 2. Income and Resource Exemptions. Income and resources which are exempted from consideration for purposes of computing eligibility for the comparable money payment program (Aid to Families With Dependent Children and Supplemental Security Income) shall be exempted from consideration by the cabinet, except that the AFDC earned income disregard (first thirty (30) dollars and one-third (1/3) of the remainder) may not be allowed in determining eligibility for medical assistance only for any eligible group but eligible children in intact families who meet the AFDC income and resources requirements; the thirty (30) dollars and one-third (1/3) of the remainder exemption for qualifying families shall be treated in the same manner as for AFDC cases except that eligibility may not be extended based on a loss of this disregard.

Section 3. Income Limitations of the Medically Needy. Eligibility from the standpoint of income is determined by comparing adjusted income as defined in Section 4 of this regulation, of the applicant, applicant and spouse, or applicant,

spouse and minor dependent children with the following scale of income protected for basic maintenance:

Size of Family	Annual	Monthly
1	\$2,300	\$192
2	2,700	225
3	3,200	267
4	3,900	325
5	4,600	383
6	5,200	433

For each additional member, \$600 annually or fifty (50) dollars monthly is added to the scale.

Section 4. Additional Income Considerations. In comparing income with the scale as contained in Section 3 of this regulation, gross income is adjusted as follows in all cases with exceptions as contained in Section 5 of this regulation:

(1) In cases of adults and children, the standard work related expenses of adult members and out-of-school youth are deducted from gross earnings. For those with either full-time or part-time employment the standard work expense deduction is seventy-five (75) dollars per month. All earnings of an in-school child are disregarded.

(2) In cases of adults and children, dependent care as a work expense is allowed not to exceed \$160 per child or incapacitated adult per month for full-time employment (as defined in subsection (1) of this section) or \$110 per child or incapacitated adult per month for part-time employment (as defined in subsection (1) of this section). A dependent care work expense deduction is allowed only when the dependent is included in the assistance unit.

Section 5. Individuals in Chronic Care Institutions. For aged, blind or disabled individuals in chronic care facilities, the following requirements with respect to income limitations and treatment of income shall be applicable.

(1) In determining eligibility, the appropriate medically needy standard is used as are appropriate disregards and exclusions from income. In determining patient liability for the cost of institutional care, gross income is used as shown in subsections (2) and (3) of this section.

(2) Income protected for basic maintenance is twenty-five (25) dollars monthly in lieu of the figure shown in Section 3 of this regulation. All income in excess of twenty-five (25) dollars is applied to the cost of care except as follows:

(a) Available income in excess of twenty-five (25) dollars is first conserved as needed to provide for needs of the spouse and minor children up to the appropriate family size amount from the scale as shown in Section 3 of this regulation.

(b) Remaining available income is then applied to the incurred costs of medical and remedial care that are not subject to payment by a third party, including Medicare and health insurance premiums and medical care recognized under state law but not covered under the state's Medicaid plan.

(3) The basic maintenance standard allowed the individual during the month of entrance into or

exit from the long term care facility shall reasonably take into account home maintenance costs.

(4) When an individual loses eligibility for a supplementary payment due to entrance into a participating long term care facility, and the supplementary payment is not discontinued on a timely basis, the amount of any overpayment is considered as available income to offset the cost of care (to the Medical Assistance Program) if actually available for payment to the provider.

Section 6. Spend-Down Provisions. No technically eligible individual or family is required to utilize protected income for medical expenses before qualifying for medical assistance. Individuals with income in excess of the basic maintenance scale as contained in Section 3 of this regulation may qualify for any part of a three (3) month period in which medical expenses incurred have utilized all excess income anticipated to be in hand during that period.

Section 7. Consideration of State Supplementary Payments. For an individual receiving state supplementary payments, that portion of the individual's income which is in excess of the basic maintenance standard is applied to the special need which results in the supplementary payment.

Section 8. Special Needs Contributions for Institutionalized Individuals. Voluntary payments made by a relative or other party on behalf of a long term care facility resident or patient shall not be considered as available income if made to obtain a special privilege, service, or item not covered by the Medical Assistance Program. Examples of such special services or items include television and telephone service, private room and/or bath, private duty nursing services, etc.

Section 9. Pass-through Cases. Increases in social security payments due to cost of living increases which are solely responsible for ineligibility of the individual for supplemental security income benefits or state supplementary payments, and which are received after April 1, 1977, shall be disregarded in determining eligibility for medical assistance benefits; such individuals shall remain eligible for the full scope of program benefits with no spend-down requirements.

Section 10. Relative Responsibility. For purposes of the Medical Assistance Program, spouses are considered responsible for spouses and parents are considered responsible for dependent minor children. Stepparents are responsible for their stepchildren as shown in Section 10(7) and Section 11 of this regulation. This responsibility, with regard to income and resources, is determined as follows:

(1) "Living with" is defined as sharing a common living arrangement or household, including living in the same room in a long term care facility. "Living apart" is defined as not sharing a common household, whether due to estrangement, disability, or illness.

(2) In cases of aged, blind, or disabled applicants or recipients living with their

spouse, total resources and adjusted income of the couple is considered in relation to the resource and income limitations for a family size of two (2), or if other dependents live with the couple, the appropriate family size including the dependents.

(3) In cases of aged, blind, or disabled couples, living apart for any reason other than institutionalization, both of whom are concurrently applying for or receiving MA only, income and resources are considered in relation to resource and income limitations for a family size of two (2), or if other dependents live with either spouse, the family size including such dependents, but only for the first six (6) months after the month of separation, that such couple lives apart; however, if mutual consideration of income and resources causes the individuals to lose eligibility as a couple, eligibility for the individuals is determined in accordance with subsection (4) of this section. If the separation is due to the institutionalization of a spouse, mutual consideration of income ceases in the month after the month of separation but resources are considered mutually available to each other the month of separation and the six (6) months following that month.

(4) In cases of an aged, blind, or disabled individual living apart from a spouse (for a reason other than institutionalization) who is not a recipient of MA only, eligibility is determined on a couple basis for the month of separation and as a single individual after the month of separation.

(5) For an individual whose case is being worked as if he/she were a single individual due to living apart from his/her spouse, as shown in Section 10(3) and (4) of this regulation, who has jointly held resources with his/her spouse, one-half (1/2) of the jointly held resource would be considered a resource; except that the entire amount of a jointly held checking or savings account is considered a resource if the resource may be accessed independently of the spouse.

(6) Total resources and adjusted income of parent(s) and children for whom application is made is considered in relation to limitations for family size. Excluded, however, is the income and/or resources of an SSI parent and the SSI essential person spouse whose medical assistance eligibility is based on inclusion in the SSI case. Resources and income of an SSI essential person, spouse or non-spouse, whose medical assistance eligibility is not based on inclusion in the SSI case must be considered.

(7) In cases of a blind or disabled child under eighteen (18) living with his/her parent(s) (including stepparent, if applicable), total resources and adjusted income of the parent(s) is related to limitations for family size, including the applicant or recipient child and other dependent children of parent using the adult scale. The income and resources of the parent(s) shall also be considered available to such child who is aged eighteen (18) through twenty-one (21), if in school, when to do so will work to the child's benefit and the individual was aged eighteen (18) through twenty-one (21) in September, 1980, and was MA eligible at that time.

(8) Income and resources of parent(s) are not considered available to a child living apart

from the parents' for a period in excess of thirty (30) days, but any continuing contribution actually made is considered as income. Living apart may mean living in a medical institution, special school or in foster care and such status continues even if the child makes visits to the parent(s) home. For comparison with the resource and income limitations, the child's individual resources and/or income are considered in relation to family size of one (1).

(9) When a recipient in a family case has income and resources considered in relation to family size and enters a long term care facility, his/her income and resources are considered in the same manner as previously for up to one (1) year. For such an individual, the twenty-five (25) dollars maintenance standard is not applicable since his/her needs are considered with that of other family members. The eligibility of the individual, with regard to income and resources, must be determined on the basis of living apart from the other family members whenever it becomes apparent that the separation will last for more than one (1) year.

Section 11. Treatment of Income of the Stepparent and Effect on Eligibility of the Assistance Group. An incapacitated (as determined by the department) stepparent's income is considered in the same manner as for a parent if the stepparent is included in the family case. When the stepparent living in the home is not being included in the family case on the basis of incapacity, the stepparent's gross income is considered available to the parent (but not the other members of the assistance group) subject to the following exclusions/disregards:

(1) The first seventy-five (75) dollars of the gross earned income of the stepparent who is employed full time or the first forty (40) dollars of the gross earned income of the stepparent who is employed part time (with full-time and part-time employment as defined in Section 4(1) of this regulation).

(2) An amount equal to the medically needy income limitations scale as shown in Section 3 of this regulation for the appropriate family size, for the support of the stepparent and any other individuals living in the home but whose needs are not taken into consideration in the medical assistance eligibility determination and are claimed by the stepparent as dependents for purposes of determining his/her federal personal income tax liability.

(3) Any amount actually paid by the stepparent to individuals not living in the home who are claimed by him/her as dependents for purposes of determining his/her personal income tax liability.

(4) Payments by the stepparent for alimony or child support with respect to individuals not living in the household.

(5) Income of a stepparent receiving Supplemental Security Income.

(6) Verified medical expenses for the stepparent and his/her dependents in the home.

Section 12. Companion Cases. When spouses or parent(s) and children living in the same household apply separately for assistance, relative responsibility must be taken into consideration.

(1) In the case of an application for assistance for a dependent child(ren), the income, resources and needs of the parent(s) must be included in the determination of need of the child(ren) even when the parent(s) applies for assistance for himself/herself on the basis of age, blindness, or disability (except as shown in subsection (3) of this section).

(2) In the case of a spouse, income and resources of both spouses are combined and compared against the medically needy income and resources limits for a family size of two (2) even though a separate determination of eligibility must be made for each individual.

(3) In the case of families with children with a parent eligible for supplemental security income (SSI), neither the income, resources, nor needs of the SSI eligible individual are to be included in the determination of eligibility of the children.

Section 13. Treatment of Lump-Sum Income. Lump-sum income is considered available in the month of receipt or the first administratively feasible month thereafter.

[Section 14. Full-Month Ineligibility Due to First-Day of Month Excess Resources. When an individual or family group related to the SSI assistance categories (i.e., aged, blind, or disabled) has excess resources on the first day of the month, the individual or group is ineligible throughout the month. The case shall be discontinued effective with the first administratively feasible month.]

Section 14. [15.] Transferred Resources. When an applicant or recipient transfers a nonexcluded resource(s) for the purpose of becoming eligible for medical assistance, the value of the transferred resource(s) will be considered a resource to the extent provided for by this section. The provisions of this section are applicable to both family related cases and medical assistance only cases based on age, blindness, or disability.

(1) The disposal of a resource, including liquid assets, at less than fair market value shall be presumed to be for the purpose of establishing eligibility unless the individual presents convincing evidence that the disposal was exclusively for some other purpose. If the purpose of the transfer is for some other reason or if the transferred resource was considered an excluded resource at the time it was transferred, the value of the transferred resource is disregarded. If the resource was transferred for an amount equal to at least the assessed value for tax purposes, the resource will be considered as being disposed of for fair market value.

(2) After determining that the purpose of the transfer was to become or remain eligible, the cabinet shall first add the uncompensated equity value of the transferred resource to other currently held resources to determine if retention of the property would have resulted in ineligibility. For this purpose, the resource considered available shall be the type of resource it was prior to transfer, e.g., if non-homestead property was transferred, the uncompensated equity value of the transferred property would be counted against the permissible amount for non-homestead property.

If retention of the resource would not have resulted in ineligibility, the value of the transferred resource would thereafter be disregarded.

(3) If retention would result in ineligibility, the cabinet will consider the excess transferred resource available for up to twenty-four (24) months, subject to the following conditions:

(a) The value of the total excess resources considered available (including the uncompensated equity value of the transferred resource) shall be reduced by \$500 for each month that has elapsed since the transfer, beginning with the month of transfer; except

(b) The reduction provided for in paragraph (a) shall not be applicable with regard to any month in which the individual received medical assistance but was actually ineligible due to the provisions of this section.

(4) For those recipients who were receiving assistance on February 28, 1981, this section is applicable only with respect to resources transferred subsequent to that date.

(5) The uncompensated value may be excluded from consideration when good cause exists. A waiver of consideration of the uncompensated amount will be granted subject to the following criteria:

(a) "Good cause" means that an expense (or loss) was incurred by the individual or family group due to a natural disaster, fire, flood, storm or earthquake; or illness resulting from accident or disease; or hospitalization or death of a member of the immediate family; or civil disorder or other disruption resulting in vandalism, home explosions, or theft of essential household items.

(b) The exclusion may not exceed the amount of the incurred expense or loss.

(6) If the individual is in a long term care facility, the actual cost of long term care (rather than the \$500) may be deducted from the uncompensated value excess on a monthly basis.

Section 15. [16.] Special Provisions for AIS/MR Recipients. Effective April 1, 1983, medical assistance eligibility for participants in the program of alternative intermediate services for the mentally retarded (AIS/MR) shall be determined taking into consideration the special provisions contained in this section.

(1) The income and resources of the parent(s) and/or spouse shall not be considered available to the AIS/MR participant.

(2) Income protected for basic maintenance of the AIS/MR participant shall be the standard for the federal supplemental security income program.

(3) The attributed cost of care against which monthly available income of the AIS/MR participant shall be applied shall be the projected annual average cost of care for all participants divided by twelve (12) and rounded to the nearest dollar.

(4) Determinations of eligibility for medical assistance of the AIS/MR participant's parent(s), spouse, and/or dependent children shall be made on the same basis as if the participant was institutionalized.

Section 16. [17.] Implementation. The provisions of this regulation, as amended, will be effective on January 1, 1985 [October 1, 1984], applicable at the time of the next

determination of eligibility for each applicant or recipient.

JACK F. WADDELL, Commissioner

E. AUSTIN, JR. Secretary

APPROVED BY AGENCY: January 2, 1985

FILED WITH LRC: January 9, 1985 at 8:30 a.m.

STATEMENT OF EMERGENCY

Under KRS Chapter 13A the administrative body is required to implement this regulation or not have the authority to operate. Therefore, in order to continue to operate the Cabinet for Human Resources in accordance with KRS Chapter 194, the Cabinet for Human Resources needs to implement this emergency regulation. An ordinary administrative regulation cannot suffice since no administrative regulations have been filed with respect to this subject matter previously. This emergency regulation will be replaced by an ordinary administrative regulation in accordance with House Bill 334.

MARTHA LAYNE COLLINS, Governor

E. AUSTIN, JR., Secretary

CABINET FOR HUMAN RESOURCES Department for Social Insurance Division of Management and Development

904 KAR 1:011E. Technical eligibility requirements.

RELATES TO: KRS 205.520

PURSUANT TO: KRS [13.082,] 194.050

EFFECTIVE: January 9, 1985

NECESSITY AND FUNCTION: The Cabinet for Human Resources has responsibility to administer the program of Medical Assistance in accordance with Title XIX of the Social Security Act. KRS 205.520(3) empowers the cabinet by regulation to comply with any requirement that may be imposed or opportunity presented by federal law for the provision of Medical Assistance, hereinafter referred to as MA, to Kentucky's indigent citizenry. This regulation sets forth the technical eligibility requirements of the MA Program.

Section 1. The Categorically Needy. All individuals receiving Aid to Families with Dependent Children, Supplemental Security Income or Optional or Mandatory State Supplementation are eligible for MA as categorically needy individuals. In addition, the following classifications of needy persons are included in the program as categorically needy and thus eligible for MA participation.

(1) Children in foster family care or private non-profit child caring institutions dependent in whole or in part on a governmental or private agency;

(2) Children in psychiatric hospitals or medical institutions for the mentally retarded;

(3) Pregnant women, when the unborn child is deprived of parental support due to death, absence, incapacity or unemployment of the father;

(4) Children of unemployed parents;

(5) Children in subsidized adoptions dependent in whole or in part on a governmental agency;

(6) Families terminated from the Aid to Families with Dependent Children (AFDC) program because of increased earnings or hours of employment;

(7) Children [in intact families] (but not their parents) who meet the income and resource requirements of the Aid to Families with Dependent Children program, who were born after September 30, 1983 and who are under the age of five (5); and

(8) A child(ren) born to a woman eligible for and receiving medical assistance, so long as the child(ren) has not reached his/her first birthday, resides in the household of the woman, and the woman remains eligible for such assistance. In this situation, an application is deemed to have been made and the child found eligible for MA as of the date of birth.

Section 2. The Medically Needy. Other individuals ([but not] including children [in intact families] as shown in Section 1(7) of this regulation), and pregnant women meeting income and resource standards of the medically needy program, meeting technical requirements comparable to the categorically needy group, but with sufficient income to meet their basic maintenance needs may apply for MA with need determined in accordance with income and resource standards prescribed by regulation of the Cabinet for Human Resources. Included within the medically needy eligible groups are pregnant women during the course of their pregnancy. For individuals covered on January 1, 1985 pursuant to this section, the usual three (3) month rule on retroactivity (as shown in Section 3(15)) will apply.

Section 3. Technical Eligibility Requirements. Technical eligibility factors of families and individuals included as categorically needy under subsections (1) through (6) of Section 1, or as medically needy under Section 2 are:

(1) Children in foster care, private institutions, psychiatric hospitals or mental retardation institutions must be under eighteen (18) years of age (or under age nineteen (19) if a full-time student in a secondary school or the equivalent level of vocational or technical training and if expected to complete the program before age nineteen (19));

(2) Pregnant women are eligible only upon medical proof of pregnancy;

(3) Unemployment relating to eligibility of both parents and children is defined as:

(a) Employment of less than 100 hours per month, except that the hours may exceed that standard for a particular month if the work is intermittent and the excess is of a temporary nature as evidenced by the fact that the individual was under the 100 hour standard for the prior two (2) months and is expected to be under the standard during the next month;

(b) The individual has prior labor market attachment consisting of earned income of at least fifty dollars (\$50) during six (6) or more calendar quarters ending on March 31, June 30, September 30, or December 31, within any thirteen (13) calendar quarter period ending within one (1) year of application, or the individual within twelve (12) months prior to application received unemployment compensation;

(c) The individual is currently receiving or

has been found ineligible for unemployment compensation;

(d) The individual is currently registered for employment at the state employment office, and available for full-time employment;

(e) The unemployed parent must not have refused suitable employment without good cause as determined in accordance with 45 CFR Section 233.100(a)(3)(ii).

(4) Under the definition contained in subsection (3) of this section, a parent shall not be considered as unemployed if he is:

(a) Temporarily unemployed due to weather conditions or lack of work when it is anticipated he can return to work within thirty (30) days; or

(b) On strike, or unemployed as a result of involvement in a labor dispute when such involvement would disqualify the individual from eligibility for unemployment insurance in accordance with KRS 341.360; or

(c) Unemployed because he voluntarily quit his most recent work for the purpose of attending school; or

(d) A farm owner or tenant farmer, unless he has previously habitually required and secured outside employment and currently is unable to secure outside employment; or

(e) Self-employed and not available for full-time employment.

(5) An aged individual must be at least sixty-five (65) years of age.

(6) A blind individual must meet the definition of blindness as contained in Titles II and XVI of the Social Security Act relating to RSDI and SSI.

(7) A disabled individual must meet the definition of permanent and total disability as contained in Titles II and XVI of the Social Security Act relating to RSDI and SSI.

(8) For families losing AFDC eligibility solely because of increased earnings or hours of employment, medical assistance shall continue for four (4) months to all such family members as were included in the family grant (and children born during the four (4) month period) if the family received AFDC in any three (3) or more months during the six (6) month period immediately preceding the month in which it became ineligible for AFDC. The four (4) month period begins on the date AFDC is terminated. If AFDC benefits are paid erroneously for one (1) or more months in such a situation, the four (4) month period begins with the first month in which AFDC was erroneously paid, i.e., the month in which the AFDC should have been terminated.

(9) Families losing AFDC eligibility solely due to loss of the thirty (30) dollars disregard or the one-third (1/3) disregard from earnings shall be deemed AFDC eligible for nine (9) months after the termination of the disregard, and shall as a result be eligible for continued medical assistance for the nine (9) month period. To qualify for continuing eligibility in this situation, the family must have received AFDC in any three (3) or more months during the six (6) month period immediately preceding the month in which it became ineligible for AFDC. The nine (9) month period begins on the date AFDC is terminated. If AFDC benefits are paid erroneously for one (1) or more months in such a situation, the nine (9) month period begins with the first month in which AFDC was erroneously paid, i.e., the month in which the AFDC should

have been terminated. Coverage for medical assistance is extended to all family members who were included in the grant (and children born during the nine (9) month period).

(10) Families losing AFDC eligibility as a result (wholly or partly) of the collection or increased collection of child or spousal support, and who received AFDC in at least three (3) of the six (6) months immediately preceding the month in which such ineligibility begins, shall be deemed AFDC eligible for Title XIX purposes for four (4) months beginning with the month in which ineligibility begins. If AFDC benefits are paid erroneously for one (1) or more months in such a situation, the four (4) month period begins with the first month in which AFDC was erroneously paid, i.e., the month in which the AFDC should have been terminated. Coverage for medical assistance is extended to all family members losing eligibility as a result of the receipt of the child or spousal support. The extended eligibility provision contained herein is applicable only with respect to families discontinued on or after July 18, 1984 and before October 1, 1988.

(11) Parents may be included for assistance in the cases of families with children including natural and adoptive parents. Other relatives who may be included in the case (one (1) only) are caretaker relatives to the same extent they may be eligible in the Aid to Families with Dependent Children Program.

(12) An applicant who is deceased may have eligibility determined in the same manner as if he was alive, in order to pay medical bills during the terminal illness.

(13) Children of the same parent, i.e., a "common" parent, residing in the same household shall be included in the same case unless this acts to preclude eligibility of an otherwise eligible household member.

(14) To be eligible, an applicant or recipient must be a citizen of the United States, or an alien legally admitted to this country or an alien who is residing in this country under color of law. An alien must have been admitted for permanent residence. The applicant or recipient must also be a resident of Kentucky. Generally, this means the individual must be residing in the state for other than a temporary purpose; however, there are exceptions with regard to recipients of a state supplementary payment and institutionalized individuals. The conditions for determining state residency are specified in federal regulations at 42 CFR 435.403, which are hereby incorporated by reference.

(15) An individual may be determined eligible for medical assistance for up to three (3) months prior to the month of application if all conditions of eligibility are met. The effective date of medical assistance is generally the first day of the month of eligibility. For individuals eligible on the basis of unemployment, eligibility may not exist for the thirty (30) day period following the starting date of the unemployment. In these cases, the effective date of eligibility may be as early as the first day following the end of the thirty (30) day period if all other conditions of eligibility are met. For individuals eligible on the basis of desertion, a period of desertion must have existed for thirty (30) days, and the effective date of eligibility may not precede

the first day of the month in which the thirty (30) day period ends. For individuals eligible on the basis of utilizing their excess income for incurred medical expenses, the effective date of eligibility is the day the spend-down liability is met.

(16) "Child" means a needy dependent child under the age of eighteen (18) (or under age nineteen (19) if a full-time student in a secondary school or the equivalent level of vocational or technical training and if expected to complete the program before the age nineteen (19)), who is not otherwise emancipated, self-supporting, married, or a member of the armed forces of the United States, and who is a recipient of or applicant for public assistance. Included within this definition is an individual(s) meeting the age requirement specified above, previously emancipated, who has returned to the home of his parents, or to the home of another relative, so long as such individual is not thereby residing with his spouse.

(17) Benefits shall be denied to any family for any month in which any legally liable caretaker relative with whom the child is living is, on the last day of such month, participating in a strike, and no individual's needs shall be considered in determining eligibility for medical assistance for the family if, on the last day of the month, such individual is participating in a strike. The definition of a strike includes a strike or other concerted stoppage of work by employees (including a stoppage by reason of expiration of a collective bargaining agreement) and any concerted slowdown or other concerted interruption of operations by employees.

Section 4. Institutional Status. No individual shall be eligible for MA if a resident or inmate of a non-medical public institution. No individual shall be eligible for MA while a patient in a state tuberculosis hospital unless he has reached age sixty-five (65). No individual shall be eligible for MA while a patient in a state institution for mental illness unless he is under age eighteen (18) (or under age nineteen (19) if a full-time student in a secondary school or the equivalent level of vocational or technical training and if expected to complete the program before age nineteen (19)) or is sixty-five (65) years of age or over.

Section 5. Application for Other Benefits. As a condition of eligibility for medical assistance, applicants and recipients must apply for all annuities, pensions, retirement and disability benefits to which they are entitled, unless they can show good cause for not doing so. Good cause is considered to exist when such benefits have previously been denied with no change of circumstances, or the individual does not meet all eligibility conditions. Annuities, pensions, retirement and disability benefits include, but are not limited to, veterans' compensations and pensions, retirement and survivors disability insurance benefits, railroad retirement benefits, and unemployment compensation. Notwithstanding the preceding, no applicant or recipient shall be required to apply for federal benefits when the federal law providing for such benefits shows the benefit to be optional and that the potential applicant or

recipient for such benefit need not apply for such benefit when to do so would, in his opinion, act to his disadvantage.

Section 6. Assignment of Rights to Medical Support. By accepting assistance for or on behalf of a child, a recipient is deemed to have made an assignment to the Cabinet for Human Resources of any medical support owed for the child not to exceed the amount of medical assistance payments made on behalf of the

recipient.

Section 7. Date of Implementation. The provisions of this regulation, as amended, shall be effective on January 1, 1985 [October 1, 1984].

JACK F. WADDELL, Commissioner

E. AUSTIN, JR., Secretary

APPROVED BY AGENCY: January 2, 1985

FILED WITH LRC: January 9, 1985 at 8:30 a.m.

AMENDED AFTER HEARING

PUBLIC PROTECTION AND REGULATION CABINET Department of Alcoholic Beverage Control Amended After Hearing

804 KAR 4:270. Substantial part/staple groceries defined.

RELATES TO: KRS 243.230(5)

PURSUANT TO: KRS 241.060

NECESSITY AND FUNCTION: KRS 243.230(5) precludes the issuance of retail package and drink liquor licenses to premises used "as or in connection with the operation of any business in which a substantial part of the commercial transaction consists of selling at retail staple groceries or gasoline and lubricating oil." The statute does not define "substantial part of the commercial transaction" or "staple groceries." This regulation is adopted to eliminate the

confusion that an absence of such definitions has caused.

Section 1. For the purpose of enforcing KRS 243.230(5) "substantial part of the commercial transaction" shall mean ten (10) percent or greater of the gross sales receipts as determined on a monthly basis.

Section 2. For the purpose of enforcing KRS 243.230(5) staple groceries shall be defined as any food or food product intended for human consumption except alcoholic beverages, tobacco, soft drinks, candy, hot foods and food products prepared for immediate consumption.

EDWARD A. FARRIS, Commissioner

MELVIN WILSON, Secretary

APPROVED BY AGENCY: November 13, 1984

FILED WITH LRC: January 8, 1985 at 2 p.m.

PROPOSED AMENDMENTS

GENERAL GOVERNMENT CABINET
Board of Pharmacy
(Proposed Amendment)

201 KAR 2:040. Registration of interns.

RELATES TO: KRS Chapter 315
PURSUANT TO: KRS [13.082,] 315.050(4),(5),
315.191(1)

NECESSITY AND FUNCTION: The Kentucky Board of Pharmacy is authorized by KRS 315.050(1) to determine the minimum experience internship required to qualify for examination as a registered pharmacist. KRS 315.191 also authorizes the board to establish requirements and standards for educational, technical and professional qualifications of applicants for license to practice pharmacy. This regulation is to assure uniformity of the minimum experience internship.

Section 1. Every person who desires to become a pharmacy intern in Kentucky shall register as an intern with the Kentucky Board of Pharmacy. No credit for internship shall be recognized by the board for periods prior to such registration. To qualify for registration, a person shall have successfully completed two (2) full year's attendance at an accredited college or university, and shall furnish proof of such to the executive director [secretary] of the board prior to the registration.

Section 2. The practical experience required prior to licensure shall be referred to as internship. The minimum internship required as to a prerequisite for licensure examination shall be 1,500 [1,600] hours; not more than forty-eight (48) hours of internship may be allowed for credit in any one (1) calendar week.

Section 3. The board shall furnish application blanks and issue a numbered registration identification card to each applicant who meets the requirements for registration as a registered intern upon receipt of a completed registration form and the fee. The registered intern shall have his registration identification card in his possession at all times when on duty and it shall be exhibited by the holder upon request of any member of the board or its authorized agents.

Section 4. (1) Internship registration shall be limited to those persons who are actively engaged in meeting the academic or practical experience requirements for licensure examination. No person who terminates the educational requisites is entitled to the privileges of internship registration, with the exception of any hardship case given written approval by the board.

(2) No person not registered with the board as a pharmacy intern shall take, use, or exhibit the title of pharmacy intern, pharmacy apprentice, pharmacy extern, or any term similar or like import.

(3) Internship shall be credited only when it has been obtained in a pharmacy acceptable to the board for that purpose.

(4) Internship may be acquired only under the supervision of a preceptor. The preceptor, the pharmacy intern's supervising pharmacist, must have been licensed by the board for at least one (1) year. He must be actively engaged in the practice of pharmacy full-time in the pharmacy where the pharmacy intern is to obtain his internship. A preceptor may supervise only one (1) pharmacy intern at a time.

Section 5. A pharmacy intern having served part or all of his time in a pharmacy outside the state shall be given credit for the same, when affidavit(s) of his said employment is made by his preceptor(s) showing the exact time and dates served, and when same is attested by the Board of Pharmacy at that state. In such cases, their requirements for internship must be comparable and acceptable to the Kentucky board.

Section 6. Internship report forms may be obtained from the board and shall be filed in accordance with printed instructions on such forms.

JOHN H. VOIGE, Executive Director

APPROVED BY AGENCY: December 12, 1984

FILED WITH LRC: January 11, 1985 at 11 a.m.

PUBLIC HEARING SCHEDULED: A public hearing has been scheduled on February 22, 1985, at 11 a.m. EST at the Office of the Board of Pharmacy, 1228 U.S. 127 South, Frankfort, Kentucky. However, this hearing will be cancelled unless interested persons notify the following office in writing by February 17, 1985, of their desire to appear and testify at the hearing: J. H. Voige, Executive Director, Kentucky Board of Pharmacy, 1228 U.S. 127 South, Frankfort, Kentucky 40601.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: J. H. Voige, Executive Director

(1) Type and number of entities affected: All prepharmacy and pharmacy students, approximately 150 persons per year.

(a) Direct and indirect costs or savings to those affected: None

1. First year:

2. Continuing costs or savings:

3. Additional factors increasing or decreasing costs (note any effects upon competition):

(b) Reporting and paperwork requirements: None

(2) Effects on the promulgating administrative body: None

(a) Direct and indirect costs or savings:

1. First year:

2. Continuing costs or savings:

3. Additional factors increasing or decreasing costs:

(b) Reporting and paperwork requirements: None

(3) Assessment of anticipated effect on state and local revenues: None

(4) Assessment of alternative methods; reasons why alternatives were rejected: None

(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: None

(a) Necessity of proposed regulation if in conflict:

(b) If in conflict, was effort made to

harmonize the proposed administrative regulation with conflicting provisions:

(6) Any additional information or comments: None

Tiering:

Was tiering applied? Not applicable. All registrants/licenseses treated in the same manner.

GENERAL GOVERNMENT CABINET
Board of Pharmacy
(Proposed Amendment)

201 KAR 2:190. Return of prescription drugs prohibited.

RELATES TO: KRS Chapters 217 and 315
PURSUANT TO: KRS [13.082,] 315.010(5), 315.191(1),(5)

NECESSITY AND FUNCTION: To prevent the dispensing of drugs that have been adulterated, contaminated or misbranded.

Section 1. No pharmacy, pharmacist, or agent thereof shall accept for reuse or resale a prescription drug. Provided, however, that this regulation shall not apply to sealed/unopened unit dose, unit of use or tamper resistant drug packaging.

Section 2. Violation of any provision of this regulation constitutes unethical or unprofessional conduct in accordance with KRS 315.121.

JOHN H. VOIGE, Executive Director

APPROVED BY AGENCY: December 12, 1984

FILED WITH LRC: January 11, 1985 at 11 a.m.

PUBLIC HEARING SCHEDULED: A public hearing has been scheduled on February 22, 1985, at 11 a.m. EST at the Office of the Board of Pharmacy, 1228 U.S. 127 South, Frankfort, Kentucky. However, this hearing will be cancelled unless interested persons notify the following office in writing by February 17, 1985, of their desire to appear and testify at the hearing: J. H. Voige, Executive Director, Kentucky Board of Pharmacy, 1228 U.S. 127 South, Frankfort, Kentucky 40601.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: J. H. Voige, Executive Director

(1) Type and number of entities affected: Mainly those pharmacists who dispense to hospital and nursing home patients.

(a) Direct and indirect costs or savings to those affected: None

1. First year:

2. Continuing costs or savings:

3. Additional factors increasing or decreasing costs (note any effects upon competition):

(b) Reporting and paperwork requirements: None

(2) Effects on the promulgating administrative body: None

(a) Direct and indirect costs or savings:

1. First year:

2. Continuing costs or savings:

3. Additional factors increasing or decreasing costs:

(b) Reporting and paperwork requirements:

(3) Assessment of anticipated effect on state and local revenues: None

(4) Assessment of alternative methods; reasons why alternatives were rejected: None

(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: None

(a) Necessity of proposed regulation if in conflict:

(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions:

(6) Any additional information or comments: None

Tiering:

Was tiering applied? Not applicable. All licensees treated in the same manner.

TOURISM CABINET
Department of Fish and Wildlife Resources
(Proposed Amendment)

301 KAR 1:016. Private camps; boat docks, etc.

RELATES TO: KRS 150.025, 150.090, 150.620, 150.625, 150.640

PURSUANT TO: KRS 13A.350, 150.025 [13.082]

NECESSITY AND FUNCTION: This regulation sets forth the conditions that govern the construction of private boat docks on department-owned waters. It provides for the use of lake water for domestic purposes and sets forth the permitted and prohibited activities on department-owned and controlled land surrounding department-owned waters. It is necessary so that the department may have control over the activities on its lands and waters. This amendment is necessary to allow mowing and cutting on departmental lands.

Section 1. Each owner or lessee of any private camp which is established on property immediately adjacent to any department-owned lake may, upon written consent of the Department of Fish and Wildlife Resources, construct and place in the waters of the lake one (1) boat dock (one (1) dock for each individual or separate real lot). Each boat dock placed in the waters of the lake must conform to the following specifications:

(1) Float or dock must measure no larger than fourteen (14) feet in length and six (6) feet in width.

(2) No enclosed superstructure may be built upon any float or dock.

(3) A canopy constructed of wood, metal or fiberglass is permitted.

(4) Any superstructure built or placed upon any float or dock must have prior approval of the Department of Fish and Wildlife Resources.

(5) The use of metal drums as flotation devices is prohibited as well as any flotation device that will sink when punctured. At such time when the docks currently using metal drums for flotation are in need of replacement, as provided in subsection six (6) of this section, those drums shall be replaced with acceptable flotation devices.

(6) Boat docks must be kept in a state of good repair. If the owner of the dock fails to keep his dock in good repair, he will be notified by the department in writing to place the dock in a proper state of maintenance as to safety and appearance. If, within sixty (60) days of

written notification, substantial work toward repair of the boat dock has not been accomplished, the department shall revoke the owner's boat dock permit and the dock shall be removed from the lake by the owner.

Section 2. Only one (1) boat may be tied or moored to an individual float or dock located on a state-owned lake on a permanent basis. More than one (1) boat may be tied or moored to an individual float or dock for a period of time not in excess of twenty-four (24) hours.

Section 3. Each owner or lessee of any private camp or group of private camps that are established on property immediately adjacent to any department-owned lake may, upon written consent of the Department of Fish and Wildlife Resources, take water from the above lakes for domestic use only at the camp sites. Plumbing and sanitary facilities must meet specifications prescribed by the Bureau of Health Services, Department for Human Resources.

Section 4. It is permitted to cut weeds or grass and clear underbrush which is less than two (2) inches in diameter from the department-owned lands around any said lakes. [The cutting of weeds or grass and clearing of underbrush and trees from the department-owned or controlled lands around said lakes is not permitted.]

Section 5. The construction or placement of roads, ramps, buildings, steps, fences, gardens, or any structure or equipment on the lands owned or controlled by the Department of Fish and Wildlife Resources which surround the lake included in this regulation is prohibited. No mechanical equipment of any type may be placed or operated on these lands unless specifically authorized by the department after careful investigation indicates that this would be in the best interest of the lake concerned.

Section 6. All officers and agents of the Department of Fish and Wildlife Resources shall have full authority to enforce the provisions of this regulation. Failure to comply with the rules and specifications set forth in this regulation shall constitute grounds for revocation of the rights and privileges of any person to admittance to and to the use of these public waters.

CARL E. KAYS, Commissioner
ROBERT C. WEBB, Chairman
G. WENDELL COMBS, Secretary

APPROVED BY AGENCY: January 15, 1985

FILED WITH LRC: January 15, 1985 at 11 a.m.

PUBLIC HEARING SCHEDULED: A public hearing on this regulation will be held on February 27, 1985 at 9 a.m. in the meeting room of the Arnold L. Mitchell Building, #1 Game Farm Road, Frankfort, Kentucky. Those interested in attending this hearing shall contact: Peter W. Pfeiffer, Director, Division of Fisheries, Department of Fish and Wildlife Resources, Arnold L. Mitchell Building, #1 Game Farm Road, Frankfort, Kentucky 40601.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Don R. McCormick

(1) Type and number of entities affected: Less than 300 private property owners.

(a) Direct and indirect costs or savings to those affected: No defineable costs are involved.

1. First year:

2. Continuing costs or savings:

3. Additional factors increasing or decreasing costs (note any effects upon competition):

(b) Reporting and paperwork requirements: None required.

(2) Effects on the promulgating administrative body: No effects will occur.

(a) Direct and indirect costs or savings: None

1. First year:

2. Continuing costs or savings:

3. Additional factors increasing or decreasing costs:

(b) Reporting and paperwork requirements: None required.

(3) Assessment of anticipated effect on state and local revenues: State and local revenues will not be affected.

(4) Assessment of alternative methods; reasons why alternatives were rejected: No alternative methods available.

(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: No conflict, overlap or duplication is evident.

(a) Necessity of proposed regulation if in conflict:

(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions:

(6) Any additional information or comments: None

Tiering:

Was tiering applied? No. The amendment itself is not tiered, however the complete regulation is.

TOURISM CABINET

Department of Fish and Wildlife Resources (Proposed Amendment)

301 KAR 1:082. Frog season; limits.

RELATES TO: KRS 150.025, 150.175, 150.360

PURSUANT TO: KRS 13A.350, 150.025 [13.082]

NECESSITY AND FUNCTION: It is necessary to regulate the season, time, bag limit, and manner of taking for bullfrogs in order to utilize and conserve the population thereof. This amendment is necessary to change the opening day and time and to bring Section 3 of this regulation in compliance with the gigging season.

Section 1. The open season on bullfrogs shall begin at 12:00 noon on the 3rd Friday in May and continue until [be 12:01 a.m. May 15 through] 12:00 p.m. October 31. The daily creel limit shall be fifteen (15) bullfrogs with a possession limit of thirty (30) bullfrogs after two (2) or more days frogging. Each day for taking bullfrogs shall begin at 12 o'clock noon and end at 12 o'clock noon the following day. No person may have more than fifteen (15) bullfrogs in his possession while in the field.

Section 2. Bullfrogs may be taken with gig, by hand, bow and arrow, firearm or hook and line from public and private waters, and an appropriate license is required. If bullfrogs

are taken with firearm or bow and arrow, a hunting license is required. If bullfrogs are taken by use of a pole and line, a fishing license is required. If bullfrogs are taken with hand or by use of a gig, then either a fishing license or a hunting license is valid.

Section 3. Except as provided in Section 3 of 301 KAR 1:075, it shall be illegal to possess a gig, of any type, while in a boat, or on, or in a stream, or lake, between November 1 and the last day of January [February] of the following year, both dates inclusive.

CARL E. KAYS, Commissioner

ROBERT C. WEBB, Chairman

G. WENDELL COMBS, Secretary

APPROVED BY AGENCY: January 15, 1985

FILED WITH LRC: January 15, 1985 at 11 a.m.

PUBLIC HEARING SCHEDULED: A public hearing on this regulation will be held on February 26, 1985 at 9 a.m. in the meeting room of the Arnold L. Mitchell Building, #1 Game Farm Road, Frankfort, Kentucky. Those interested in attending this hearing shall contact: Peter W. Pfeiffer, Director, Division of Fisheries, Department of Fish and Wildlife Resources, Arnold L. Mitchell Building, #1 Game Farm Road, Frankfort, Kentucky 40601.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Don R. McCormick

(1) Type and number of entities affected: Approximately 50,000 individuals who hunt bullfrogs.

(a) Direct and indirect costs or savings to those affected: None

1. First year:

2. Continuing costs or savings:

3. Additional factors increasing or decreasing costs (note any effects upon competition):

(b) Reporting and paperwork requirements: None required.

(2) Effects on the promulgating administrative body: None

(a) Direct and indirect costs or savings: None

1. First year:

2. Continuing costs or savings:

3. Additional factors increasing or decreasing costs:

(b) Reporting and paperwork requirements: None required.

(3) Assessment of anticipated effect on state and local revenues: N/A

(4) Assessment of alternative methods; reasons why alternatives were rejected: None available

(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: Not aware of any conflicts

(a) Necessity of proposed regulation if in conflict:

(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions:

(6) Any additional information or comments: None

Tiering:

Was tiering applied? No. Regulation applies to a uniform statewide season. Tiering is not appropriate.

NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION CABINET Department for Environmental Protection Division of Water (Proposed Amendment)

401 KAR 5:010. Certification of wastewater system operators.

RELATES TO: KRS 224.135

PURSUANT TO: KRS [13.082,] 224.032, 224.033(17)

NECESSITY AND FUNCTION: The Secretary is directed to adopt regulations applicable to certification of wastewater system operators. This regulation establishes standards for classification of wastewater systems; qualifications of applicants; examination procedures; duties of the board; and, provisions relating to the issuance, renewal or revocation of certificates, fee schedule and other provisions necessary for certification of operators. The February, 1985 amendments add a limited certification, revise the fee schedule, and make other operational revisions related to the functions of the wastewater operators certification board.

Section 1. Definitions. The following terms shall have the meanings set forth below unless the context clearly indicates otherwise:

(1) "Board" means the Kentucky Board of Certification of Wastewater System Operators.

(2) "Cabinet [Department]" means the Kentucky [Department for] Natural Resources and Environmental Protection Cabinet.

(3) "Secretary" means the secretary of the cabinet [department].

(4) "Certificate" means a certificate of competency issued by the secretary stating that the operator has met all requirements for the specified operator classification as set by this regulation.

(5) "Division" means the Division of Water [Quality], [Department for] Natural Resources and Environmental Protection Cabinet.

(6) "Operator" means the person having primary responsibility of a wastewater system or any portion thereof which may affect the performance of the system.

(7) "Primary responsibility" means having the authority to conduct or supervise the procedures and practices necessary to insure that the wastewater system or any portion thereof is operated in accordance with accepted practices, laws and regulations of the Commonwealth.

(8) "Wastewater system" means the system of pipes, structures, equipment and processes required to collect, carry and treat domestic and/or industrial wastewater, including solids handling. The term "wastewater system" is synonymous and interchangeable with the term "sewage system."

(9) "Association of Boards of Certification for Operating Personnel in Water and Wastewater Utilities (ABC)" means that organization which serves as an information center for certification activities, recommends minimum standards and guidelines for classification of water supply and wastewater systems and state programs, and assists authorities in establishing new certification programs and upgrading existing ones.

[Section 2. Membership and Compensation of the

Board. Members of the board will be appointed by the Secretary of the Department for Natural Resources and Environmental Protection or his/her designee. The board shall consist of eight (8) members as follows: one (1) employee of a municipality who holds the position of either city manager, city engineer, director of public works, or the equivalent thereof; one (1) member who is a faculty member of a college, university or professional school whose major field is related to wastewater treatment; one (1) non-voting ex-officio member representing the department; and five (5) members currently employed as operators holding valid certificates where one (1) of these five (5) shall be an operator of an industrial wastewater system. Board members shall serve for a four (4) year term, except for the first board to which two (2) of the operators will be appointed for four (4) years and three (3) for two (2) years. The first college faculty member will be appointed for two (2) years and the remaining board members will be appointed for four (4) years. The department's representative shall serve as executive secretary and treasurer and be responsible for maintaining records. The members of the board shall serve without compensation but may be reimbursed for all actual and necessary expenses incurred while discharging their official duties. At least four (4) existing members of the board shall constitute a quorum.]

Section 2. [3.] General Provisions. (1) Each wastewater system must be operated under the supervision of an individual holding a current Kentucky operator's certificate for at least the class of system he/she supervises. Certified operators are required for the operation of all wastewater treatment facilities.

(2) In the event the operator with primary responsibility is not physically present while a system is operating, he/she must be reasonably available. Such availability shall be determined by the board on a case-by-case basis.

Section 3. [4.] Duties of the Board. In carrying out its responsibilities the board shall:

(1) Examine the qualifications of applicants for certification.

(2) Recommend qualified applicants for certification by the cabinet [department].

(3) Maintain records of operator qualifications, certification and register of certified operators.

(4) Perform such other and further acts as may be necessary to carry out the duties and responsibilities as herein described.

Section 4. [5.] Application for Certification. (1) An operator desiring to be certified shall file application with the cabinet [department] preceding examination on an application form provided by the cabinet [department].

(2) The executive secretary and treasurer of the board shall assemble all the information needed by the board or cabinet [department] to determine eligibility of the applicant for examination and certification.

(3) The board or cabinet [department] shall review applications and supporting documents, determine the eligibility of the applicant for examination and notify him/her of his/her status.

Section 5. [6.] Examinations. (1) The board and the cabinet [department] shall be jointly responsible for preparation of the examinations to be used in determining knowledge, ability and judgment of the applicants. The examination questions promulgated by the ABC shall be used as a guideline.

(2) Examinations shall be held at places and times set forth by the cabinet [department]. The examinations shall be conducted at least semiannually.

(3) Except in cases which the board may decide represent proper exceptions, all examinations shall be written. All examinations will be graded by the board, or by the cabinet [department] and the applicant notified of the outcome. Papers will not be returned to the applicant, but means will be provided to review the results with a member of the board or cabinet [department] upon request by the applicant.

(4) Separate examinations will be prepared to cover basic differences in the duties and responsibilities of operators, types of facilities, variations in wastewater quality, conditions of receiving waters and other pertinent matters.

(5) Applicants who fail to pass an examination may reapply for the examination at a regularly scheduled examination or by appointment with the cabinet [department].

Section 6. [7.] Fees. (1) Fees for certification of operators of wastewater systems shall be as follows:

(a) Examination: \$15 [10].

(b) [Annual] Renewal of certificate: \$12 per biennium beginning March 1, 1985, and \$16 per biennium beginning March 1, 1987. Limited certificates: \$6 per year beginning March 1, 1985 and \$8 per year beginning March 1, 1987 [4].

(2) Fees accompanying applications will not be returned to those who do not pass the examination [qualify for a certificate].

Section 7. [8.] Issuance of Certificates. (1) Upon satisfactory fulfillment of the requirements provided herein and upon recommendation of the board of certification, the cabinet [department] shall issue a suitable certificate to the applicant designating his/her competency. This certificate will indicate the classification of the wastewater system for which the operator is qualified.

(2) Certificates of operators in good standing will be renewed biennially on odd-numbered years beginning 1985 [annually], upon written application and submission of applicable renewal fee. Limited certificates will be renewed annually and only after the cabinet certifies that the holder of the certificate has substantially complied with all requirements for properly operating the facility under his/her responsible charge.

(3) Certified operators who desire to become certified in a higher classification must first satisfactorily complete the requirements for the higher classification before a new certificate is issued. Experience under a limited certificate does not count toward fulfillment of qualifications for other classifications.

(4) Certificates shall be valid only so long as the holder uses reasonable care, judgment and application of his/her knowledge in the

performance of his/her duties. No certificate will be valid if obtained through fraud, deceit or the submission of inaccurate data on qualifications.

(5) The certificates of operators who terminate their employment at a wastewater system will be valid for four (4) [five (5)] years providing they are renewed as required by subsection 2 of this section, except for limited certificate holders. After four (4) [five (5)] years, the certificate will be automatically invalidated. Limited certificates become invalid immediately if not renewed. Operators whose certificates are invalidated may be issued new certificates of like classification provided appropriate proof of competency is presented to the board. Successful completion of a written or oral examination shall be required by the board.

(6) Certificates may be issued at the discretion of the board in a comparable classification to any person who holds a valid certificate in any state, territory, or possession of the United States or any country provided the requirements for certification of operators under which the person's certificate was issued do not conflict with any provisions of KRS Chapter 224 and are of a comparable standard; and, providing further, that reciprocal privileges are granted to certified operators of this state.

(7) Certificates shall be prominently displayed in the office of the operator.

(8) Certificates heretofore issued by the cabinet [department] shall continue in full force and effect, unless revoked for cause, until such time as the cabinet [department] issues new certificates based upon the classifications provided herein.

(9) Training requirements:

(a) Class III and Class IV operators [Operators] shall have accumulated twelve (12) hours per year of appropriate board approved training for [annual] certificate renewal. Class I and II operators shall complete six (6) hours of training per year for renewal. Such training shall include, but may not be limited to, correspondence courses, short courses, trade association meetings, and on-the-job training. Training hours accumulated in any given year in excess of the minimum requirement necessary for renewal may be carried forward for a period not to exceed two (2) years. No training is required for holders of limited certificates. Requirements of this subsection shall be effective for certification renewal at midnight on February 28, 1985.

(b) The board may waive any or all of the requirements of paragraph (a) for all or portion(s) of a class of operators as defined in Section 11.

[(c) Requirements of this subsection shall be effective for certification renewal at midnight on February 28, 1982.]

Section 8. [9.] Revocation of Certificates. The cabinet [department] may revoke the certificate of an operator, following a hearing before the board and upon recommendation by the board, when it is found that the operator has practiced fraud or deception; that reasonable care, judgment or the application of his/her knowledge was not used in the performance of his/her duties; or that the operator is incompetent or unable to properly perform

his/her duties.

Section 9. [10.] Classification of Wastewater Systems. Wastewater systems shall be classified in one (1) of five (5) [four (4)] classes. These classifications shall be made according to population served, type of work, character and volume of wastes to be treated, and the use and nature of the waters [resources] receiving the system effluent. Classifications I through IV shall be based on the population served or for which the system is designed except that systems may be classified in a group higher than indicated at the discretion of the cabinet [department] by reason of the incorporation in the system of special features of design or characteristics more difficult to operate than usual, or by reason of conditions of flow or use of the receiving water requiring an unusually high degree of system operation control, or for combinations of such conditions or circumstances. In addition, a limited classification is available for operators of wastewater facilities at schools. Classes I through IV are defined as:

(1) Class I: System serving a population of less than 2,000.

(2) Class II: Systems serving a population between 2,000 and 10,000.

(3) Class III: Systems serving a population between 10,000 and 40,000.

(4) Class IV: Systems serving a population in excess of 40,000.

Section 10. [11.] Classification of Wastewater System Operators. Five (5) [Four (4)] classes of operators are hereby established and shall range from Class I through Class IV plus Limited. Each operator classification is intended to relate directly to the corresponding classification of wastewater system.

Section 11. [12.] Operator Qualifications: Experience, Education and Equivalencies. (1) Operators shall be examined by the board or cabinet [department] as to education, experience, and knowledge as related to the classification of wastewater systems for which examined. Applicants may be required further to give evidence of good moral character, dependability, initiative, interest in his/her work, and other pertinent characteristics in relation to operation of the class of wastewater system for which certification is being applied.

(2) Experience and educational requirements of operators shall be as follows:

(a) Class I:

1. Completion of high school or equivalent; and
2. One (1) year of acceptable operation of applicable wastewater system.

(b) Class II:

1. Completion of high school or equivalent; and
2. Two (2) years of acceptable operation of applicable wastewater system of Class I or higher.

(c) Class III:

1. Completion of high school or equivalent; and
2. Three (3) years of acceptable operation of applicable wastewater system of Class II or higher.

(d) Class IV:

1. A baccalaureate degree in a standard curriculum in engineering, allied sciences or equivalent; and

2. At least five (5) years of acceptable operation of applicable wastewater system of Class III or higher.

(3) In evaluating qualifications of operators and experience/educational equivalencies the board shall be guided by the following:

(a) Experience requiring some technical knowledge of the work and whether or not responsible charge of work was included. In wastewater systems, where responsibility is divided, supervisors of important divisions may be credited with having responsible charge.

(b) Experience, to be acceptable, must be the result of satisfactory accomplishment of work. Evaluation may be based on reports of the cabinet [department] or other agencies having appropriate responsibilities for supervising wastewater systems.

(c) Partial credit may be given for operating experience in maintenance laboratories or other work of wastewater systems and allied trades such as plumbing.

(d) Where applicable, education may be substituted for a portion of experience requirements as specified below:

1. One (1) year of college work (limited to approved curricula in environmental engineering, environmental technology or related scientific fields) may be considered as equivalent to a maximum of two (2) years of experience or one (1) year of experience with responsible charge.

2. Where education is substituted for experience it shall not exceed an amount which would reduce the requirements of actual operating experience to less than six (6) months for Class I or less than one (1) year for Class II or two (2) years for Class III or three (3) years for Class IV.

3. Education applied to the experience requirement cannot also be applied to the education requirement.

(e) Where applicable, experience may be substituted for education requirements as specified below:

1. One (1) year of experience may be considered as equivalent to a maximum of two (2) years of high school.

2. Each year of responsible charge or two (2) years experience in an important phase of operation, other than responsible charge, will be considered equivalent to one (1) year of college.

3. Experience applied to educational requirements may not also be applied to the experience requirement.

(f) Substitutions for formal education may be as follows:

1. Training credits (T.C.) for board approved operators training schools, seminars and technical courses may be substituted for high school and college requirements. One (1) year of college work equals thirty (30) semester hours or forty-five (45) quarter hours. Six (6) classroom hours of board approved courses shall equal one (1) T.C., and forty-five (45) T.C. equals eighteen (18) semester hours of college or one (1) year of high school.

2. An acceptable high school equivalency certificate may be used to substitute for graduation from high school.

CHARLOTTE E. BALDWIN, Secretary

APPROVED BY AGENCY: January 15, 1985

FILED WITH LRC: January 15, 1985 at 9 a.m.

PUBLIC HEARING SCHEDULED: A public hearing on this proposed regulation will be held on February 28, 1985, at 10 a.m. in the Capital Plaza Tower. A person interested in attending this hearing or in submitting written comments regarding this proposed regulation shall submit by February 23, 1985, a written request or the written comments to: A. Leon Smothers, Assistant Director, Division of Water, 18 Reilly Road, Fort Boone Plaza, Frankfort, Kentucky 40601.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: A. Leon Smothers

(1) Type and number of entities affected: These regulatory changes will affect about 1900 currently certified wastewater treatment plant operators, plus an additional 250 new operators a year.

(a) Direct and indirect costs or savings to those affected:

1. First year: There will be an additional \$5 fee for the initial issuance of a wastewater treatment plant operator's certification (from \$10 to \$15). In addition, the renewal fee rate will be increased from \$4 to \$6 per year on March 1, 1985.

2. Continuing costs or savings: The renewal fee rate will be increased from \$6 to \$8 per year on March 1, 1987.

3. Additional factors increasing or decreasing costs (note any effects upon competition): There will be no additional costs beyond those presented above. There will be no effect upon competition.

(b) Reporting and paperwork requirements: None

(2) Effects on the promulgating administrative body: This regulation revision would change the requirements for renewing certifications from an annual renewal to a biennial one.

(a) Direct and indirect costs or savings:

1. First year: The Division will be able to save approximately one-half of the administrative expenses incurred in renewing operator certifications. The extra revenues will be used to offset costs incurred by the Division for increased training (created by a previously promulgated continuing education provision) and for verifying number of hours accumulated.

2. Continuing costs or savings: Same as (2)(a)1

3. Additional factors increasing or decreasing costs: None

(b) Reporting and paperwork requirements: None

(3) Assessment of anticipated effect on state and local revenues: This regulation will increase state revenues above current amounts by about \$5000 per year after March 1985 and about \$8800 per year after March 1987.

(4) Assessment of alternative methods; reasons why alternatives were rejected: The alternatives to the funding provisions were (1) to eliminate the certification program and the attendant efforts the Division makes for training operators and providing for their continuing education or (2) to provide for these activities from general fund revenues. Since the certification and training activities are required by law and since qualified operation is absolutely necessary for preventing water pollution, we cannot justify abandoning these activities. In addition, since operators receive compensation for their activities, we feel that issuance and renewal fees are legitimate costs for their profession and should not be borne by

the general public or any other group.

(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: None

(a) Necessity of proposed regulation if in conflict: Not applicable

(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions: Not applicable

(6) Any additional information or comments: None

Tiering:

Was tiering applied? No. Not applicable.

**NATURAL RESOURCES AND
ENVIRONMENTAL PROTECTION CABINET
Department for Environmental Protection
Division of Water
(Proposed Amendment)**

401 KAR 5:026. Classification of waters.

RELATES TO: KRS 224.020, 224.060

PURSUANT TO: KRS 224.033(17)

NECESSITY AND FUNCTION: This regulation applies the use classifications found in Sections 4, 5, 6, and 7 [and 8] of 401 KAR 5:031 to the surface waters of the Commonwealth. This regulation also makes all surface waters subject to the general criteria specified in Section 2 [3] of 401 KAR 5:031.

Section 1. Classification to Designated Uses. Waters classified under this regulation shall be designated for all legitimate uses listed in KRS 224.020(1) except as specified in 401 KAR 5:031, Section 5 [6]. Until reclassified in accordance with the procedures of this regulation, the criteria which are indicated for these classifications shall be applicable in all cases unless otherwise ordered by the cabinet pursuant to 401 KAR 5:031, Section 8 [9]. Outstanding resource waters may have unique water quality characteristics which shall be maintained by additional criteria adopted pursuant to 401 KAR 5:031, Section 7 [even beyond the water's designated classification].

Section 2. Reclassification. (1) The reclassification of waters of the Commonwealth which establishes a different classification than is established under this regulation shall be adopted only upon affirmative findings by the cabinet pursuant to Sections 5 and 6 of this regulation. Prior to adding or removing any use, the cabinet shall provide notice and an opportunity for a public hearing.

(2) In reclassifying any water body, the cabinet shall ensure that its water quality standards provide for the attainment and maintenance of the water quality standards of downstream waters.

(3) A use shall not be removed for a water body if that use is currently being attained, or if such uses will be attained by implementing effluent limitations required under 401 KAR 5:035 and 401 KAR 5:045 and by implementing cost-effective and reasonable best management practices for nonpoint source control.

(4) If a water body is designated for a more stringent use than is currently being attained, the cabinet shall reclassify the water body upon

demonstration that the designated use is unattainable due to natural background; irretrievable person-induced conditions; or that existing "point" sources would have to be controlled beyond the most stringent effluent limitation levels required for such sources under 401 KAR 5:035 and 401 KAR 5:045 and imposition of such extra controls would result in substantial and widespread economic and social impact.

(5) Implementation of this section will be consistent with 401 KAR 5:029, Section 2.

Section 3. Priority for Implementation. Except as provided in subsection (4) of this section, the priorities for reclassification of the waters of the Commonwealth are:

(1) Waters receiving (or proposed to receive) discharges from publicly-owned treatment works and/or serving as public water supply sources in the following order of priority:

(a) Any local units of government with a pending public construction permit application for installation or upgrading of a sewage treatment plant and/or public water treatment plant.

(b) Any local units of government in the 201 Construction Grants Program for installation or upgrading of a sewage treatment plant, in an order of priority consistent with their priority project list rank.

(c) Any local units of government which request consideration prior to their entering into either their own construction project, a NPDES or KPDES permit action, or the 201 Construction Grants Program for installation or upgrading of a sewage treatment plant.

(d) Other local units of government.

(2) Waters receiving (or proposed to receive) discharges from any other (private or semi-public) treatment works, in the following order of priority:

(a) New NPDES or KPDES permit applicants or proposed NPDES or KPDES permit modifications to waterways which may potentially be classified for a beneficial use of cold-water aquatic habitat.

(b) All other segments with private or semi-public facilities, on a first-come, first-serve basis.

(3) All other surface waters which do not have any existing or proposed point source dischargers.

(4) These priorities may be varied in a particular case pursuant to an administrative hearing.

Section 4. Responsibility for Providing Documentation. The following entities are responsible for providing the documentation for the reclassification of the surface waters under this regulation. The required documentation is outlined in Section 5.

(1) The cabinet shall provide supporting documentation for the reclassification of waters on which are located (or proposed to be located) facilities which are either:

(a) Publicly-owned treatment works;

(b) Outstanding resource waters on publicly owned land; or

(c) New NPDES or KPDES permit applicants or proposed NPDES or KPDES permit modifications for waters which may potentially be classified for a beneficial use of outstanding resource waters.

(2) Any applicant filing for reclassification in circumvention of the priority system contained in Section 3 shall provide classification documentation for waters on which discharges from private or semi-public treatment works are located (or proposed to be located). In these cases the applicant sustains the burden of proof that the reclassification is appropriate and necessary.

(3) The cabinet shall provide documentation for all other waters which do not have any existing or proposed point source dischargers.

Section 5. Required Documentation. This section outlines the documentation which shall be required to support the reclassifications of surface waters of the Commonwealth as follows:

(1) A USGS 7.5 minute map will be prepared showing those waters or stream segments to be classified. A description consisting of a river mile index with existing and proposed discharge points.

(2) Existing uses and water quality data for the proposed waters or stream segments for which the reclassification is proposed. Where adequate data are unavailable, additional studies may be required by the cabinet.

(3) General land uses (e.g., mining, agricultural, recreation, low, medium, and high density residential commercial-industrial, etc.) as well as specific land uses adjacent to the waters for the length of the segment for which the reclassification is proposed.

(4) The existing and designated uses of the receiving waters into which the segment under consideration discharges and the downstream uses of those receiving waters.

(5) General physical characteristics of the stream segment including, but not limited to width, depth, bottom composition, and slope.

(6) The frequency of occasions when there is no natural flow in the segment, the low flow in the segment and low flow in adjacent segments.

(7) An assessment of the existing and potential aquatic life habitat in the stream segment under consideration and the adjacent upstream segment. The existing aquatic life in the area must be documented as well as an assessment of livestock and natural wildlife dependence upon the stream segment. The occurrence of individuals or populations, indices of diversity and well-being, and abundance of species of any unique biota must be documented.

(8) The existing and proposed designated uses for the stream segment(s) in question.

(9) [In addition, for downgrading,] Information must be supplied pursuant to Section 2, specifically:

(a) An explanation of the irretrievable person-induced, or natural conditions which preclude attainment of a higher use designation; or

(b) An assessment of the substantial and widespread social and economic impacts of additional controls necessary for existing point sources, beyond the most stringent effluent limitation levels normally required for such sources.

Section 6. Procedures for Reclassification. This section outlines the procedures by which use reclassifications will be assigned. Procedures for reclassification of a water of

the Commonwealth shall be initiated and considered in the order of priority specified in Section 3.

(1) For each of the waters for which a reclassification is proposed, the cabinet or applicant as defined in Section 4(2) of this regulation, shall prepare a fact sheet containing, but not limited to, the following information:

(a) The name and address of the applicant;

(b) The name and sketch or description of the waters proposed for specified use classifications, including the location of existing and proposed dischargers;

(c) The proposed use classifications;

(d) A brief abstract of the supportive documentation which demonstrates that said classification is appropriate;

(e) The appropriate water quality criteria for the segment(s) based on the proposed designated use(s);

(f) The treatment requirements proposed for discharges to the waters in question if designated for the proposed use(s);

(g) A "plain English" summary of the implications of such designation for the community and other users or potential users of the waters in question;

(h) The procedure by which the designation will be made.

(2) Based upon all available information, the staff shall make its recommendation of use classifications of the waters in question to the secretary.

(3) The secretary shall cause to be prepared a list of segments and their classification to be published as an administrative regulation.

(4) Upon completing the review period and the procedures for promulgation under administrative rule making, all designated waters and their use classifications shall be listed in Section 7 of this regulation.

Section 7. Stream Use Classifications. (1) Listed in the tables below are the use classifications for specific waters of the Commonwealth. The County column indicates the county in which the mouth of the stream is located. The identifying symbols for use classifications are as follows:

WAH - Warmwater Aquatic Habitat

CAH - Coldwater Aquatic Habitat

PCR - Primary Contact Recreation

SCR - Secondary Contact Recreation

DWS - Domestic Water Supply (applicable at existing points of public water supply withdrawal)

ORW - Outstanding Resource Water

(2) Waters not specifically listed in this section are designated for the use of warmwater aquatic habitat, primarily contact recreation, secondary contact recreation and domestic water supply in accordance with Section 1 of this regulation.

(3) Exceptions to specific criteria listed to protect use classifications in 401 KAR 5:031 are shown in the tables of stream use classifications in this section. All other criteria in 401 KAR 5:031 applicable to the listed use classifications also apply to these streams.

[Section 8. The provisions of this regulation shall not be severable with 401 KAR 5:029, 401 KAR 5:031, and 401 KAR 5:035.]

(See tables following
Local Mandate Impact Statement)

CHARLOTTE E. BALDWIN, Secretary

APPROVED BY AGENCY: January 15, 1985

FILED WITH LRC: January 15, 1985 at 9 a.m.

PUBLIC HEARING SCHEDULED: A public hearing on this regulation will be held on Thursday, February 28, 1985 at 2 p.m. EST in the auditorium of the State Office Building in Frankfort. Those interested in attending this hearing shall contact: Robert W. Ware, Manager, Water Quality and Quantity Branch, Division of Water, 18 Reilly Road, Fort Boone Plaza, Frankfort, Kentucky 40601.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Donald J. Challman

(1) Type and number of entities affected: Generally the entities affected by this regulation irrespective of the proposed changes include: (1) entities required to treat wastewater (the regulated public); (2) fishing and recreational enthusiasts; and (3) the general public. A more detailed description of entities affected is contained in the regulatory impact analysis (RIA) prepared for 401 KAR 5:031, Water Quality Standards, which is a companion regulation of this one.

(a) Direct and indirect costs or savings to those affected:

1. First year: In the short-run, no additional costs to the regulated community should result from this regulation. Savings to entities affected by the regulation are fairly significant and relate primarily to maintaining community water supplies, viable fishery resources, water-based recreational opportunities, and Kentucky's unique and exceptional Outstanding Resource Waters. See RIA prepared for the companion regulation 401 KAR 5:031 for further details.

2. Continuing costs or savings: Costs over the long-run will continue to escalate for the regulated community corresponding to economic development and additional waste inputs. The distinction being made here is that these are not new costs resulting from this regulation. Regulated entities are aware of these continuing and long-standing facility compliance requirements and are therefore anticipating cost increases.

3. Additional factors increasing or decreasing costs (note any effects upon competition): None determined.

(b) Reporting and paperwork requirements: This regulation does not contain any reporting or paperwork requirements. The regulation specifies legitimate stream uses. Use designations and numerical and narrative criteria (standards) provide the scientific and legal basis for the Commonwealth's water pollution control program. Standards are used in the (1) determination and assignment of effluent limits by permit to individual dischargers; (2) evaluation of their performance through testing and monitoring; and (3) enforcement process leading to compliance. The regulation does not by itself impose paperwork requirements.

(2) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings:

1. First year: Changes as specified in this regulation will have no effect on the operation or costs of the Natural Resources and Environmental Protection Cabinet. The Cabinet has already implemented the requirements of this regulation and have internalized associated costs with normal budget appropriations. This regulation as it relates to the operation of the Cabinet does not change the basis for routine procedures involved in managing construction grants, permitting, compliance monitoring or enforcement.

2. Continuing costs or savings: Same as (2)(a)1.

3. Additional factors increasing or decreasing costs: None determined

(b) Reporting and paperwork requirements: The regulation will not affect the amount of paperwork of the Natural Resources and Environmental Protection Cabinet. Again, the regulation establishes legitimate stream uses, providing the basis for permitting, compliance monitoring and enforcement actions where necessary.

(3) Assessment of anticipated effect on state and local revenues: Changes to this regulation will not by themselves have an effect on state and local revenues. Over the long-run, state and local government will have to increase expenditures associated with wastewater treatment corresponding to economic growth and development. Additional impacts of this and other companion regulations are discussed in the RIA prepared for 401 KAR 5:031.

(4) Assessment of alternative methods; reasons why alternatives were rejected: No alternatives were evaluated with the exception of the "no action" alternative. The "no action" alternative was rejected since the proposed changes are minor and were necessary to clarify existing requirements and practices of the state and regulated community.

(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: None determined.

(a) Necessity of proposed regulation if in conflict: Not applicable.

(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions: Not applicable.

(6) Any additional information or comments: Persons reviewing this regulation are encouraged to review the RIA prepared for 401 KAR 5:031. Regulation 401 KAR 5:026, 401 KAR 5:029, and 401 KAR 5:031 are companion regulations. Regulation 401 KAR 5:026 establishes legitimate stream uses; 401 KAR 5:029 sets out general provisions for all wastewater dischargers; and 401 KAR 5:031 specifies numerical and narrative criteria that must be maintained to protect legitimate stream uses. Each regulation is dependent on the others and the resulting impacts are similar, if not the same. Conclusions of the RIA for 401 KAR 5:031 are not repeated here in order to reduce the typing of the Cabinet and of those who prepare the Administrative Register.

Tiering:

Was tiering applied? No. Tiering was not applied since the regulation affects all entities

required to treat wastewater irrespective of facility ownership, capacity, or unit process or treatment employed.

LOCAL MANDATE IMPACT STATEMENT

Regulation No.: 401 KAR 5:026
SUBJECT/TITLE: Classification of Waters
SPONSOR: Natural Resources and Environmental Protection Cabinet/Department for Environmental Protection/Division of Water
NOTE SUMMARY
LOCAL GOVERNMENT MANDATE: Yes
TYPE OF MANDATE: Requirement Mandate/
Programmatic - Quality/Quantity
LEVEL(S) OF IMPACT: City, County, Urban County Government
BUDGET UNIT(S) IMPACT: Publicly-Owned Treatment Works
FISCAL SUMMARY: Refer to fiscal explanation
MEASURE'S PURPOSE: Specifies use classifications for warm and coldwater aquatic habitat, drinking water (at points of withdrawal), recreation, and outstanding resource waters.
PROVISION/MECHANICS: Regulation specifies that warmwater aquatic habitat, coldwater aquatic habitat, primary contact recreation, secondary contact recreation, domestic drinking water (at points of withdrawal), and outstanding resource water use classifications shall be applied (where applicable) to certain streams of Kentucky. Numerical and/or narrative criteria (water quality standards) associated with each use classification provides the basis from which effluent limits are derived that must be met by waste dischargers in the basins in order to protect and maintain the legitimate beneficial uses of the subject waters.
FISCAL EXPLANATION: Publicly-owned treatment works in the basins will be subject to limitations imposed by the use classifications and associated numerical and/or narrative criteria. In the short-run, no additional costs above that already required of local government should result. In the long-run, many of the basins cannot assimilate the wastes associated with growth and development without a corresponding increase in the size and sophistication of wastewater operations and processes. Treatment requirements over time may increase for new source applicants and expansions of existing facilities, mandating more expensive advanced secondary treatment. A detailed analysis of regional economic development and population growth would be required to determine treatment needs in each basin. Additionally, the exact treatment costs of individual dischargers is case-specific depending on technology employed, waste characteristics, and size. Therefore, aggregate costs cannot be determined.
PREPARER: Donald J. Challman

(See tables to this regulation on following pages)

LIST OF DESIGNATED STREAM USE CLASSIFICATIONS

Stream	Zone	County	Use Classification	<u>Exceptions to Specific Criteria</u>
BIG SANDY BASIN				
Hood Creek	Source to Wheeler Branch	Lawrence	CAH, PCR, SCR	
LITTLE SANDY RIVER BASIN				
Big Caney Creek	Source to Grayson Lake	Elliott	CAH, PCR, SCR	
Laurel Creek	Source to Little Sandy River	Elliott	CAH, PCR, SCR	
TYGARTS CREEK BASIN				
Buffalo Creek	Source to Tygarts Creek	Carter	WAH, PCR, SCR	
Little Whiteoak Creek	Source to Tygarts Creek	Greenup	WAH, PCR, SCR	
Tygarts Creek	Source to Ohio River	Greenup	WAH, PCR, SCR, DWS	
Whiteoak Creek	Source to Tygarts Creek	Greenup	WAH, PCR, SCR	
LICKING RIVER BASIN				
Caney Creek	Source to North Fork Licking River	Rowan/Morgan	CAH, PCR, SCR	
Fleming Creek	Source to Licking River	Nicholas	WAH, PCR, SCR	
Slate Creek	Source to Licking River	Bath	WAH, PCR, SCR, DWS	
KENTUCKY RIVER BASIN				
Chimney Top Creek	Basin	Wolfe	CAH, PCR, SCR	
East Fork Indian Creek	Source to Indian Creek	Menifee	CAH, PCR, SCR	
Gladie Creek	Basin	Menifee	CAH, PCR, SCR	
Middle Fork Red River	Source to River Mile 10.6	Powell	CAH, PCR, SCR	
Red River	River Mile 68.6 to River Mile 59.5	Menifee/Wolfe	WAH, PCR, SCR, ORW	
Silver Creek	Source to Kentucky River	Madison	WAH, PCR, SCR	
South Fork Elkhorn Creek	Source to North Fork Elkhorn Creek	Franklin	WAH, PCR, SCR	
Swift Camp Creek	Source to Red River	Wolfe	CAH, PCR, SCR	
Town Branch	Source to South Fork Elkhorn Creek	Fayette	WAH, PCR, SCR	
SALT RIVER BASIN				
Chenoweth Run	Source to Floyds Fork	Jefferson	WAH, PCR, SCR	
Currys Fork	Confluence of South and North Forks to Floyds Fork	Oldham	WAH, PCR, SCR	
Floyds Fork	Source to Salt River	Bullitt	WAH, PCR, SCR	
Mill Creek	Source to Salt River	Bullitt	WAH, PCR, SCR	
North Fork of Currys Fork	Source to South Fork of Currys Fork	Oldham	WAH, PCR, SCR	
Unnamed tributary to Mill Creek	Source to Mill Creek at River Mile 11.8	Bullitt	WAH, PCR, SCR	

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Stream	Zone	County	Use Classification	<u>Exceptions to Specific Criteria</u>
GREEN RIVER BASIN				
Beaver Dam Creek	Source to Green River	Edmonson	CAH, PCR, SCR	
Black Lick Creek	Source to Clear Fork	Logan	WAH, PCR, SCR, DWS	
Buffalo Creek	Source to Green River (in Mammoth Cave National Park)	Edmonson	CAH, PCR, SCR	
Cypress Creek	Source to Pond River	McLean	WAH, PCR, SCR	
Gasper River	Source to Barren River	Warren	WAH, PCR, SCR	
Green River	River Mile 225.9 to River Mile 181.7	Edmonson/Hart	WAH, PCR, SCR, ORW	
Green River	River Mile 181.7 to River Mile 168.0	Edmonson/Warren	WAH, PCR, SCR, DWS	
Green River	River Mile 168.0 to River 148.0	Butler/Warren	WAH, PCR, SCR, ORW	
Green River	River Mile 148.0 to Ohio River	Henderson	WAH, PCR, SCR, DWS	
Lick Fork Creek	Source to W. Fork Drakes Creek	Simpson	CAH, PCR, SCR	
Lynn Camp Creek	Source to Green River	Hart	CAH, PCR, SCR	
Underground River System	Mammoth Cave National Park	Edmonson/Hart/ Barren	CAH, PCR, SCR, ORW	
Mud River	Source to Green River	Butler/Muhlen- burg	WAH, PCR, SCR	
Roundstone Creek	Source to Hwy 1140 (River Mile 3.5)	Hart	CAH, PCR, SCR	
Trammel Fork	Source to Hwy 31E (River Mile 23.6)	Warren	CAH, PCR, SCR	
Wiggington Creek	Source to Gasper River	Logan	WAH, PCR, SCR	
LOWER CUMBERLAND RIVER BASIN				
Casey Creek	Source to Little River	Trigg	CAH, PCR, SCR	
Skinframe Creek	Source to Livingston Creek	Lyon	CAH, PCR, SCR	
Sulphur Spring Creek	Source to Red River	Simpson	CAH, PCR, SCR	
TENNESSEE RIVER BASIN				
Tennessee River	River Mile 22.4 to River Mile 0.0	Livingston/ McCracken	WAH, PCR, SCR, DWS	
TRADEWATER RIVER BASIN				
Craborchard Creek/ Vaughn Ditch	Source to Tradewater River	Webster	WAH, PCR, SCR	
Montgomery Creek	Source to Tradewater River	Caldwell	WAH, PCR, SCR	
Tradewater River	Source to Ohio River	Crittenden	WAH, PCR, SCR	

Stream	Zone	County	Use Classification	Exceptions to Specific Criteria
OHIO RIVER BASIN (Main Stem and Minor Tributaries)				
Ohio River	Big Sandy River (River Mile 664.15) to Mississippi River	Ballard	WAH, PCR, SCR, DWS	See next page

Exceptions to Specific Criteria for Ohio River Main Stem

1. Dissolved oxygen: concentrations shall average at least 5.0 mg/l per calendar day and shall not be less than 4.0 mg/l at any time provided that a minimum of 5.0 mg/l at any time is maintained during the April 15-June 15 spawning season.

2. Temperature: (a) Allowable stream temperatures are:

Month/Date	Period Average (°F)	Instantaneous Maximum (°F)
January 1-31	45	45
February 1-29	45	50
March 1-15	51	56
March 16-31	54	59
April 1-15	58	64
April 16-30	64	69
May 1-15	68	73
May 16-31	75	80
June 1-15	80	85
June 16-30	83	87
July 1-31	84	89
August 1-31	84	89
September 1-15	84	87
September 16-30	82	86
October 1-15	77	82
October 16-31	72	77
November 1-30	67	72
December 1-31	52	57

(b) A successful demonstration conducted for thermal discharge limits under Section 316(a) of the Clean Water Act will constitute compliance with these temperature criteria.

3. Total dissolved solids: Not to exceed 500 mg/l as a monthly average, nor exceed 750 mg/l at any time. Equivalent 25°C specific conductance values are 800 and 1,200 micromhos/cm respectively.

4. Maximum allowable instream concentrations for specific parameters are given below. Metal concentrations are total recoverable values unless otherwise listed.

Parameter	Concentration (mg/l)
Chromium (hexavalent)	0.05
Cyanide	0.025
Lead (dissolved)	0.05
Nitrite-Nitrate-N	10.00
Nitrite-N	1.0
Phenolic compounds	0.01
Copper: when total hardness as calcium carbonate is:	Allowable Concentration (mg/l) is:
50	0.012
80	0.018
100	0.022
160	0.034
200	0.043

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Zinc: When total hardness
as calcium carbonate is:

0- 80
81-120
121-160
161-180
181-200

Allowable
Concentration is:

0.040
0.055
0.070
0.095
0.115

5. The net discharge of aldrin, dieldrin, DDT, including DDD and DDE, endrin, toxaphene, benzidine and PCBs is prohibited.

Stream	Zone	County	Use Classification	Exceptions to Specific Criteria
Doe Run Creek	Source to KY Hwy 1628 (River Mile 5.15)	Meade	CAH, PCR, SCR	
Sinking Creek	Source to Kwy 259 (River Mile 4.0)	Breckinridge	CAH, PCR, SCR	
UPPER CUMBERLAND RIVER BASIN				
Bad Branch	Basin	Letcher	CAH, PCR, SCR	
Bark Camp Creek	Basin	Whitley	CAH, PCR, SCR	
Beaver Creek	Basin	McCreary	CAH, PCR, SCR	
Beaver Creek	Source to Lake Cumberland	Wayne	WAH, PCR, SCR	
Big South Fork Cumberland River	River Mile 55.2 to River Mile 45.0	McCreary/ Wayne	WAH, PCR, SCR, ORW	
Breeden's Creek	Basin	Harlan	CAH, PCR, SCR	
Buck Creek	River Mile 47.7 to River Mile 10.5	Pulaski	WAH, PCR, SCR, ORW	
Bunches Creek	Basin	Whitley	CAH, PCR, SCR	
Cane Creek	Basin	Laurel	CAH, PCR, SCR	
Cogur Fork	Basin	McCreary	CAH, PCR, SCR	
Cumberland River	Cumberland River Dam to Highway 90 bridge (River Mile 426.5	Russell/ Cumberland	CAH, PCR, SCR, DWS	
Cumberland River	River Mile 574.6 to River Mile 558.5	McCreary/ Whitley	WAH, PCR, SCR, ORW	
Difficulty Creek	Basin	McCreary	CAH, PCR, SCR	
Dogslaughter Creek	Basin	Whitley	CAH, PCR, SCR	
Fugitt Creek	Basin	Harlan	CAH, PCR, SCR	
Horse Lick Creek	River Mile 12.3 to River Mile 0.0	Jackson	WAH, PCR, SCR, ORW	
Kelly Branch	Basin	Harlan	CAH, PCR, SCR	
Kennedy Creek	River Mile 1.0 to River Mile 0.0	Wayne	WAH, PCR, SCR, ORW	
Little South Fork Cumberland River	River Mile 35.6 to River Mile 4.1	Wayne	WAH, PCR, SCR, ORW	
Looney Creek	Basin	Harlan	CAH, PCR, SCR	
Martin's Fork	Basin above Hwy 987 (River Mile 27.4)	Harlan	CAH, PCR, SCR, ORW	

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Stream	Zone	County	Use Classification	<u>Exceptions to Specific Criteria</u>
Middle Fork, Rock- castle River	River Mile 61.1 to River Mile 41.3	Jackson	WAH, PCR, SCR, ORW	
Poor Fork Cumberland River	Basin above Jefferson National Forest Boundary (River Mile 720.55)	Letcher	CAH, PCR, SCR	
Poor Fork Cumberland	River Mile 720.55 to Clover Fork Cumberland River	Harlan	WAH, PCR, SCR, DWS	
Razor Fork	Basin	Harlan	CAH, PCR, SCR	
Rock Creek	Tennessee-Kentucky State Line to White Oak Creek	McCreary	CAH, PCR, SCR, ORW	
Rockcastle River	River Mile 27.9 to River Mile 8.5	Laurel/ Pulaski	WAH, PCR, SCR, ORW	
Roundstone Creek	Source to Rockcastle River	Rockcastle	WAH, PCR, SCR, DWS	
Yellow Creek	Source to Cumberland River	Bell	WAH, PCR, SCR	
Shillalah Creek	Source to Cumberland Gap National Historical Park Boundary	Bell	CAH, PCR, SCR	
Troublesome Creek	Basin	McCreary	CAH, PCR, SCR	
Sugar Run	Source to Cumberland Gap National Historical Park Boundary	Bell	CAH, PCR, SCR	

NATURAL RESOURCES AND
ENVIRONMENTAL PROTECTION CABINET
Department for Environmental Protection
Division of Water
(Proposed Amendment)

401 KAR 5:029. General provisions.

RELATES TO: KRS Chapter 224

PURSUANT TO: KRS [13.082,] 224.020, 224.033, 224.060

NECESSITY AND FUNCTION: This regulation contains a definition and abbreviation section applicable to all water quality regulations. A non-degradation section is included pursuant to KRS Chapter 224. A section pertaining to withdrawal of waters not meeting water quality standards and criteria is included to address withdrawal of contaminated waters. A sample collection and analytical methodology section is included to insure reproducible analytical results. A provision relating to allowable conditions in mixing zones is also included.

Section 1. Definitions and Abbreviations. (1) General function of definitions. The following definitions describe terms used in this chapter. Terms not defined below shall have the meaning given to them in relevant statutes or, if not defined in statutes, the meaning attributed by common use.

(a) "Aquifer" means any formation of soil, sand, rock, gravel, limestone, sandstone, or other material or any fracture, crevice, or void in any space formation from which underground water is or may be available.

(b) "Coldwater aquatic habitat" means surface waters and associated substrate that will support indigenous aquatic life including self-sustaining or reproducing trout populations on a year-round basis [as well as stocked trout].

(c) "Conventional domestic water supply treatment" means or includes coagulation, sedimentation, filtration, and chlorination.

(d) "Criteria" means specific concentrations or ranges of values, or narrative statements of water constituents which represent a quality of water [, if not exceeded, are] expected to result in an aquatic ecosystem suitable for designated uses of waters. Such criteria are derived to protect legitimate uses such as aquatic life, domestic water supply, and recreational use.

(e) "Division" means the Division of Water [Quality].

(f) "Effluent ditch" means that portion of a treatment system which is a discreet, person-made conveyance, either totally owned, leased or under [proper] easement by the discharger, which transports a discharge to waters of the Commonwealth.

(g) "Epilimnion" means the thermally homogeneous water layer overlying the metalimnion (thermocline) of a lake.

(h) "Eutrophication" means the enrichment of waters of the state by the discharge or addition of nutrients.

(i) "Fecal coliform" means the portion of the coliform group of bacteria which are [is] present in the intestinal tract [gut] or the feces of warm-blooded animals. It generally includes organisms which are capable of producing gas from lactose broth in a suitable culture medium within twenty-four (24) hours at

44.5 degrees plus or minus 0.2 degrees C.

(j) "Hypolimnion" means the lower cold region of a stratified body of water that extends from the metalimnion to the bottom of the lake and circulation is restricted while stratified with the upper waters thereby receiving no oxygen from the atmosphere.

(k) "Indigenous aquatic life" means naturally occurring aquatic organisms including but not limited to bacteria, fungi, algae, aquatic insects, other aquatic invertebrates, reptiles and amphibians, and fishes. Under some natural conditions one (1) or more of the above groups may be absent from any given surface water.

(l) "Intermittent stream" means a stream that flows at certain times of the year as when it receives water from springs or precipitation in the immediate watershed.

(m) "LC50" is used to express the results of bioassays having lethality as the criterion of toxicity. A numerical percentage is used to indicate the percentage of the test animals killed at a given concentration.

(n) "Low flow (seven (7) day, once-in-ten (10) year low flow)" means that minimum average flow which occurs for seven (7) consecutive days with a recurrence interval of ten (10) years.

[(o) "Low-flow stream" means that portion of a watercourse where the low flow (not attributable to discharges and other hydraulic alterations) is one (1) cubic foot per second or less.]

(p) [(p)] "Median tolerance limit (TLM)" is a measure of the concentration at which fifty (50) percent of the organisms survive.

(q) [(q)] "Milligrams per liter (mg/l)" means the milligrams of substance per liter of solution, and is equivalent to parts per million in water assuming unit density.

(r) [(r)] "Mixing zone" means a domain of a water body contiguous to a treated or untreated wastewater discharge of quality characteristics different from those of the receiving water. The discharge is in transit and progressively diluted from the source to the receiving system. The mixing zone is the domain where wastewater and receiving water mix.

(s) [(s)] "Natural temperature" means the temperature that would exist in waters of the Commonwealth without the change of enthalpy of artificial origin as opposed to climatic change or naturally occurring seasonally variable temperature associated with riparian vegetation and seasonal changes.

(t) [(t)] "Natural water quality" means those naturally occurring physical, chemical, and biological properties of waters.

(u) [(u)] "Net discharge" means the amount of substance released to a surface water by excluding the influent value from the effluent value if both the intake and discharge are from and to the same or similar body of water.

(v) "Non point" means any source of pollutants not defined by point source as used in this regulation.

(w) "Outstanding resource waters" means waters designated by the cabinet [department] pursuant to 401 KAR 5:031, Section 7 [8].

(x) "Point source" means any discernible, confined, and discrete conveyance, including, but not limited to any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, rolling stock, concentrated animal feeding operation, from which pollutants are or may be discharged. This term does not include

return flows from irrigated agriculture.

(x) "Productive aquatic communities" means an assemblage of indigenous aquatic life capable of reproduction and growth.

(y) "Propagation" means the continuance of species by successful spawning, hatching, and development or natural generation in the natural environment, as opposed to the maintenance of species by artificial culture and stocking.

(z) "Public water supply" means only surface water that with conventional treatment will be suitable for: human consumption through a public water system as defined in 401 KAR 6:015, Section 1; culinary purposes; or for use in any food or beverage processing industry and meets state and/or federal regulations under the Safe Drinking Water Act (P.L. 92-523) [for drinking water]. This term is synonymous with "domestic water supply."

(aa) "Standard" is a regulation [numerical value, range of values, or narrative statement] promulgated by the cabinet establishing the use or uses to be made of a waterbody or segment and the water quality criteria necessary to maintain and protect that use or uses [department to maintain and protect the waters of the Commonwealth for designated uses].

(bb) "Surface waters" means those waters having well defined banks and beds, either constantly or intermittently flowing[, except effluent ditches]; impounded waters; marshes and wetlands; and any subterranean waters flowing in well defined channels and having a clear hydrologic connection with the surface. Effluent ditches and lagoons used for waste treatment which are situated on property owned, leased, or under easement by a permitted discharger are not considered to be surface waters of the Commonwealth.

(cc) "Thermocline" means the plane in a body of water in which the maximum rate of decrease in temperature occurs.

(dd) "Toxic substances" means substances which are bioaccumulative, synergistic, antagonistic, teratogenic, mutagenic or carcinogenic and interfere with the normal propagation of aquatic life, wildlife, or preclude the legitimate uses of any waters of the Commonwealth.

(ee) "Warmwater aquatic habitat" means any surface water and associated substrate capable of supporting indigenous warmwater aquatic life.

(2) Abbreviations used in water quality regulations:

(a) °C means degree(s) Celsius;

(b) EPA - See U. S. EPA;

(c) °F means degree(s) Fahrenheit;

(d) KPDES means Kentucky Pollutant Discharge Elimination System;

(e) [(d)] mg/l means milligrams per liter (same as ppm);

(f) [(e)] NPDES means National Pollutant Discharge Elimination System;

(g) [(f)] pCi/l means picocuries per liter;

(h) [(g)] ppm means part(s) per million (assuming unit density, same as mg/l);

(i) [(h)] ug/l means micrograms per liter;

(j) [(i)] U.S. EPA means the United States Environmental Protection Agency.

Section 2. Non-degradation. (1) It is the purpose of these regulations to safeguard the waters of the Commonwealth, for their designated uses, to prevent the creation of any new pollution of the waters of the Commonwealth; and

to abate any existing pollution.

(2) The state water quality standards and continuing planning process designed to provide for the protection of existing water quality and/or the upgrading or enhancement of water quality in all waters of the Commonwealth shall serve as the method for implementation of this policy.

(3) The implementation of this policy shall conform to 40 CFR 131.12 [130.17] to the extent allowed by KRS 224.020.

(4) No degradation shall be allowed in outstanding resource waters to the extent that:

(a) [The introduction of specific pollutants exceeds] The criteria established pursuant to Section 7 [8](2) of 401 KAR 5:031 is exceeded due to the introduction of specific pollutants; or

(b) The existing quality is changed due to person-induced activities unless the cabinet finds, after full satisfaction of the intergovernmental coordination and public participation provisions of the state's continuing planning process, that allowing a modification of existing water quality is necessary to accommodate important economic and social development in the area in which the waters are located. [The legitimate beneficial uses of these waters are impaired.]

(5) In those cases where potential water quality impairment associated with a thermal discharge is involved, a successful demonstration conducted under Section 316 of the Clean Water Act is considered to be in compliance with all portions of this non-degradation section.

Section 3. Withdrawal of Contaminated Water. It is recognized that surface waters will, on occasion, not meet the standards and criteria established in these regulations. Withdrawal and subsequent discharge of these waters without alteration of the physical, or chemical characteristics into the same or similar water body will not be considered a violation of these regulations. The cabinet [department] will determine effluent criteria and limitations in these situations based on the quality of the raw and receiving waters. The cabinet [department] retains the right to require modification under the provisions of 401 KAR 5:035, Section 1, if water quality characteristics so dictate.

Section 4. Sample Collection and Analytical Methodology. All methods of sample collection, preservation, and analysis used to determine conformity or nonconformity with water quality standards shall be in accordance with those prescribed in 40 CFR Part 136, as amended, when applicable. Other methods not found in the above reference may be used where appropriate if approved by the cabinet. [Sample and analytical procedures will be conducted in a manner consistent with recommendations in "Standard Methods for the Examination of Water and Wastewater" (latest edition), "Methods for Chemical Analysis of Water and Wastes" (EPA), and other methods as determined by the department.]

Section 5. Mixing Zones. The following guidelines and conditions are applicable in all mixing zones: (1) The cabinet shall, on a case-by-case basis, specify definable geometric

limits for mixing zones. Applicable limits shall include, but may not be limited to, the linear distances from the point of discharge, surface area involvement, volume of receiving water, and shall take into account other nearby mixing zones.

(2) Concentrations of toxic substances which exceed the ninety-six (96) hour LC50 or other appropriate LC50 tests for representative indigenous aquatic organisms are not allowed at any point within the mixing zone.

(3) The location of a mixing zone shall not interfere with spawning areas, nursery areas, fish migration routes, public water supply intakes, bathing areas, nor preclude the free passage of fish or other aquatic life.

(4) Whenever possible the mixing zone shall not exceed one-third (1/3) of the width of the receiving stream, and in no case shall exceed one-half (1/2) of the cross-sectional area.

(5) In lakes and other surface impoundments, the volume of a mixing zone shall not affect in excess of ten (10) percent of the volume of that portion of the receiving waters available for mixing.

(6) In all cases, a mixing zone must be limited to an area or volume which will not adversely alter the legitimate uses of the receiving water; nor shall a mixing zone be so large as to adversely affect an established community of aquatic organisms.

(7) In the case of thermal discharges, a successful demonstration conducted under Section 316(a) of the Clean Water Act shall constitute compliance with all provisions of this section.

(8) Criteria listed in Section 4 of 401 KAR 5:031 do not apply in the mixing zone. [The provisions of this regulation shall be unseverable from the provisions of 401 KAR 5:026, 401 KAR 5:031, and 401 KAR 5:035.]

CHARLOTTE E. BALDWIN, Secretary

APPROVED BY AGENCY: January 15, 1985

FILED WITH LRC: January 15, 1985 at 9 a.m.

PUBLIC HEARING SCHEDULED: A public hearing on this regulation will be held on Thursday, February 28, 1985 at 2 p.m. EST in the auditorium of the State Office Building in Frankfort. Those interested in attending this hearing shall contact: Robert W. Ware, Manager, Water Quality and Quantity Branch, Division of Water, 18 Reilly Road, Fort Boone Plaza, Frankfort, Kentucky 40601.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Donald J. Challman

(1) Type and number of entities affected: Generally the entities affected by this regulation irrespective of the proposed changes include: (1) entities required to treat wastewater (the regulated public); (2) fishing and recreational enthusiasts; and (3) the general public. A more detailed description of entities affected is contained in the Regulatory Impact Analysis (RIA) prepared for 401 KAR 5:031. Water quality standards, which is a companion regulation of this one.

(a) Direct and indirect costs or savings to those affected:

1. First year: In the short-run, no additional costs to the regulated community should result from this regulation. Savings to entities affected by the regulation are fairly

significant and relate primarily to maintaining community water supplies, viable fishery resources, water-based recreational opportunities, and Kentucky's unique and exceptional Outstanding Resource Waters. See RIA prepared for the companion regulation 401 KAR 5:031 for further details.

2. Continuing costs or savings: Costs over the long-run will continue to escalate for the regulated community corresponding to economic development and additional waste inputs. The distinction being made here is that these are not new costs resulting from this regulation. Regulated entities are aware of these continuing and long-standing facility compliance requirements and are therefore anticipating cost increases.

3. Additional factors increasing or decreasing costs (note any effects upon competition): None determined.

(b) Reporting and paperwork requirements: This regulation does not contain any reporting or paperwork requirements. The regulation specifies general provisions to guide the Commonwealth's water quality standards program. Numerical and narrative criteria (water quality standards) provide the scientific and legal basis for the Commonwealth's water pollution control program. Standards are used in the (1) determination and assignment of effluent limits by permit to individual dischargers; (2) evaluation of their performance through testing and monitoring; and (3) enforcement process leading to compliance. The regulation does not by itself impose paperwork requirements.

(2) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings:

1. First year: Changes as specified in this regulation will have no effect on the operation or costs of the Natural Resources and Environmental Protection Cabinet. The Cabinet has already implemented the requirements of this regulation and have internalized associated costs with normal budget appropriations. This regulation as it relates to the operation of the Cabinet does not change the basis for routine procedures involved in managing construction grants, permitting, compliance monitoring or enforcement.

2. Continuing costs or savings: Same as (2)(a)1.

3. Additional factors increasing or decreasing costs: None determined

(b) Reporting and paperwork requirements: The regulation will not affect the amount of paperwork of the Natural Resources and Environmental Protection Cabinet. Again, the regulation establishes general provisions for guiding the water quality standards program, providing the basis for permitting, compliance monitoring and enforcement actions where necessary.

(3) Assessment of anticipated effect on state and local revenues: Changes to this regulation will not by themselves have an effect on state and local revenues. Over the long-run, state and local government will have to increase expenditures associated with wastewater treatment corresponding to economic growth and development. Additional impacts of this and other companion regulations are discussed in the RIA prepared for 401 KAR 5:031.

(4) Assessment of alternative methods; reasons

why alternatives were rejected: Several suggestions were made, however, rejected when revising the regulation. In relation to mixing zones, one commenter suggested that headwater streams be included as exempt from water quality standards if downstream waters are protected and if there is no acute toxicity from a discharge into a headwater stream.

The suggestion that headwater streams receive similar exemptions from water quality standards as mixing zones was rejected. It is beyond the scope of this triennial review to devote the time and effort required to fully analyze the implication of such an exemption. It would appear that such an exemption would result in certain streams being used for waste transport or assimilation which is contrary to the basic premise of the water quality standards program.

Under the provisions of withdrawal of contaminated water, it was suggested that this section be changed to provide dischargers with full relief from meeting stream standards where current levels of technology are not sufficient or economically justifiable to meet stream criteria. The addition of new conditions allowing for relief of meeting stream standards due to the use of contaminated water broadens the intent of this provision. It was originally meant to provide relief for those instances when the water was used for once-through cooling purposes. The section will remain unchanged. However, new wording in 401 KAR 5:031 for site-specific criteria development should be broad enough to allow for dischargers to have relief when discharging to waters which have higher parameter concentrations than current criteria allow.

Other suggestions have been incorporated in the regulation. Additionally, certain minor changes were made to clarify existing requirements or practices of the state and regulated community.

(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: None determined.

(a) Necessity of proposed regulation if in conflict: Not applicable.

(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions: Not applicable.

(6) Any additional information or comments: Persons reviewing this regulation are encouraged to review the RIA prepared for 401 KAR 5:031. Regulation 401 KAR 5:026, 401 KAR 5:029, and 401 KAR 5:031 are companion regulations. Regulation 401 KAR 5:026 establishes legitimate stream uses; 401 KAR 5:029 sets out general provisions for all wastewater dischargers; and 401 KAR 5:031 specifies numerical and narrative criteria that must be maintained to protect legitimate stream uses. Each regulation is dependent on the others and the resulting impacts are similar, if not the same. Conclusions of the RIA for 401 KAR 5:031 are not repeated here in order to reduce the typing of the Cabinet and of those who prepare the Administrative Register.

Tiering:

Was tiering applied? No. Tiering was not applied since the regulation affects all entities required to treat wastewater irrespective of facility ownership, capacity, or unit process or treatment employed.

LOCAL MANDATE IMPACT STATEMENT

SUBJECT/TITLE: General provisions

SPONSOR: Natural Resources and Environmental Protection Cabinet/Department for Environmental Protection/Division of Water

NOTE SUMMARY

LOCAL GOVERNMENT MANDATE: Yes

TYPE OF MANDATE: Requirement mandate; programmatic - quality/quantity

LEVEL(S) OF IMPACT: City, County, Urban County Government

BUDGET UNIT(S) IMPACT: Publicly-owned treatment works

FISCAL SUMMARY: Refer to fiscal explanation

MEASURE'S PURPOSE: Specifies general provisions including definitions and abbreviations, a non-degradation policy, provisions governing mixing zones and the withdrawal of contaminated water, and sample collection and analytical methods.

PROVISION/MECHANICS: Regulation specifies general provisions that must be met by all wastewater discharges. General provisions serve to guide the Commonwealth's water quality standards program. Numerical and/or narrative criteria (water quality standards) associated with stream use classifications provides the basis from which effluent limits are derived that must be met by waste dischargers in the basins in order to protect and maintain the legitimate beneficial uses of the subject waters.

FISCAL EXPLANATION: Publicly-owned treatment works in the basins will be subject to limitations imposed by the regulation. In the short-run, no additional costs above that already required of local government should result. In the long-run, many of the basins cannot assimilate the wastes associated with growth and development without a corresponding increase in the size and sophistication of wastewater operations and processes. Treatment requirements over time may increase for new source applicants and expansions of existing facilities, mandating more expensive advanced secondary treatment. A detailed analysis of regional economic development and population growth would be required to determine treatment needs in each basin. Additionally, the exact treatment costs of individual dischargers is case-specific depending on technology employed, waste characteristics, and size. Therefore, aggregate costs cannot be determined.

PREPARER: Donald J. Challman

NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION CABINET Department for Environmental Protection Division of Water (Proposed Amendment)

401 KAR 5:031. Surface water standards.

RELATES TO: KRS Chapter 224

PURSUANT TO: KRS 224.020, 224.060

NECESSITY AND FUNCTION: This regulation sets forth water quality standards which consist of designated legitimate uses of the surface waters of the Commonwealth and the associated water quality criteria necessary to protect those uses. These standards are minimum criteria which apply to all surface waters in order to maintain and protect them for designated uses. [Allowance

for mixing zones and] Criteria for nutrients are recognized and included. These water quality standards are established to protect public health and welfare, protect and enhance the quality of water, and fulfill federal and state requirements for the establishment of water quality standards. These water quality standards are subject to periodic review and revision in accordance with federal and state laws.

[Section 1. Mixing Zones. The following guidelines are applicable in determining all mixing zones: (1) The department shall, on a case-by-case basis, specify definable, geometric limits for mixing zones. Applicable limits shall include but may not be limited to the linear distances from the point of discharge, surface area involvement, volume of receiving water, and taking into account other nearby mixing zones.]

[(2) The mixing zones shall be free from pollutants which are in excess of 0.44 times the 96 hour LC50 for a representative indigenous aquatic organism.]

[(3) The location of a mixing zone shall not interfere with spawning areas, nursery areas, fish migration routes, public water supply intakes, bathing areas, nor preclude the free passage of fish or other aquatic life.]

[(4) Whenever possible the mixing zone shall not exceed one-third (1/3) of the width or cross-sectional area of the receiving stream, and in no case shall exceed one-half (1/2) of this volume.]

[(5) In lakes and other surface impoundments, the volume of a mixing zone shall not affect in excess of ten (10) percent of the volume of that portion of the receiving waters available for mixing.]

[(6) In all cases, a mixing zone must be limited to an area or volume which will not adversely alter the legitimate uses of the receiving water; nor shall a mixing zone be so large as to adversely affect an established community of aquatic organisms.]

Section 1. [2.] Nutrient Limits. (1) In surface impoundments and their tributaries where eutrophication problems may exist, nitrogen, phosphorus, carbon, and contributing trace element discharges will be limited as appropriate by the cabinet [department].

(2) The affected surface waters will be designated as nutrient limited.

Section 2. [3.] Minimum Criteria Applicable to all Surface Waters. The following minimum water quality criteria are applicable to all surface waters including mixing zones, with the exception that toxicity to aquatic life in mixing zones shall be subject to the provisions specified in 401 KAR 5:029, Section 5(2). Surface waters shall not be aesthetically or otherwise degraded by substances that:

- (1) Settle to form objectionable deposits;
- (2) Float as debris, scum, oil, or other matter to form a nuisance;
- (3) Produce objectionable color, odor, taste, or turbidity;
- (4) Injure, be toxic to or produce adverse physiological or behavioral responses in humans, animals, or fish[, shellfish,] and other aquatic life;
- (5) Produce undesirable aquatic life or result in the dominance of nuisance species;

(6) Cause the following changes in radionuclides:

(a) Cause the gross total alpha particle activity (including radium-226 but excluding radium and uranium) to exceed fifteen (15) pCi/l;

(b) Cause combined radium-226 and radium-228 to exceed five (5) pCi/l (specific determinations of radium-226 and radium-228 are not necessary if dissolved gross particle activity does not exceed five (5) pCi/l);

(c) Cause the concentration of total gross beta particle activity to exceed fifty (50) pCi/l;

(d) Cause the concentration of tritium to exceed 20,000 pCi/l;

(e) Cause the concentration of total Strontium-90 to exceed eight (8) pCi/l.

Section 3. [4.] Use Classifications and Associated Criteria. (1) Surface waters may be designated as having one (1) or more of the following legitimate uses and associated use criteria. The classifications in Sections 4, 5, 6, and 7 [and 8] include the most common usage of surface waters within the Commonwealth. Nothing in this regulation shall be construed to prohibit or impair the legitimate beneficial uses of these waters. The criteria in Section 2 [3] and the indicated use criteria represent minimum conditions necessary to protect designated surface waters for that use.

(2) On occasion surface water quality may be outside of the limits established to protect designated uses because of natural conditions. When this condition occurs during periods when stream flows are below the seven (7) day ten (10) year low flow which is used by the cabinet to establish effluent limits for wastewater treatment facilities, a discharger shall not be considered a contributor to instream violations of water quality standards, provided that maximum treatment in compliance with permit requirements is maintained.

Section 4. [5.] Aquatic Life. (1) Warmwater aquatic habitat. The following parameters and associated criteria are for the protection of productive warmwater aquatic communities, fowl, animal wildlife, arborous growth, agricultural, and industrial uses:

(a) Natural alkalinity as CaCO₃ shall not be reduced by more than twenty-five (25) percent. Where natural alkalinity is below twenty (20) mg/l CaCO₃, no reduction below the natural level is allowed. Alkalinity shall not be reduced or increased to a degree which may adversely affect the aquatic community.

(b) pH shall not be less than 6.0 nor more than 9.0 and shall not fluctuate more than one (1) unit over a period of twenty-four (24) hours.

(c) Flow shall not be altered to a degree which will adversely affect the aquatic community.

(d) Temperature shall not exceed 31.7 degrees Celsius (eighty-nine (89) degrees Fahrenheit):

1. The normal daily and seasonal temperature fluctuations that existed before the addition of heat due to other than natural causes shall be maintained.

2. The cabinet will determine allowable surface water temperatures on a site-specific basis utilizing available data which shall be based on the effects of temperature on the

aquatic biota which utilize specific surface waters of the Commonwealth and which may be affected by person-induced temperature changes. Effects on downstream uses will also be considered in determining site-specific temperatures. [The maximum temperature rise other than the effects of a mixing zone shall not exceed the natural temperature by 2.8 degrees Celsius, (five (5) degrees Fahrenheit), with a maximum rate of change not to exceed one (1) degree Celsius, (1.8 degrees Fahrenheit), per hour. The department will maintain guidelines for maximum daily average temperatures based on available data. The department may determine that deviations from these guidelines will be allowed upon the submission of adequate supporting data on naturally occurring temperatures for a specific location. Furthermore, as a guideline, the water temperature for all surface waters should not exceed the maximum limits shown in the following table:]

[Table I
Stream Maximum Temperature
for Each Month in °F and °C

Month	°F	°C
January	50	10.0
February	50	10.0
March	60	15.6
April	70	21.1
May	80	26.7
June	87	30.6
July	89	31.7
August	89	31.7
September	87	30.6
October	78	25.6
November	70	21.1
December	57	13.9]

3. A successful demonstration concerning thermal discharge limits carried out under Section 316(a) of the Clean Water Act shall constitute compliance with the temperature requirements of this subsection. A successful demonstration assures the protection and propagation of a balanced indigenous population of shellfish, fish and wildlife in or on the water into which the discharge is made. [The allowable temperature increase in impounded waters shall be limited to 1.7 degrees Celsius, (three (3) degrees Fahrenheit), above the natural seasonal norm.]

(e) Dissolved oxygen:

1. Dissolved oxygen shall be maintained at a minimum concentration of five (5) mg/l daily average and at no time should the instantaneous minimum be less than four (4) mg/l.

2. The dissolved oxygen concentration shall be measured at mid-depth in waters having a total depth of ten (10) feet or less and at representative depths in other waters.

(f) Solids:

1. Total dissolved solids: Total dissolved solids shall not be changed to the extent that the indigenous aquatic community is adversely affected.

2. Total suspended solids: Total suspended solids shall not be changed to the extent that the indigenous aquatic community is adversely affected. The addition of settleable solids that may adversely alter the stream bottom is

prohibited.

(g) Ammonia: The concentration of the un-ionized form shall not be greater than 0.05 mg/l at any time in stream after mixing as illustrated in the table entitled "Instream Ammonia-N Concentrations," filed herein by reference. Copies may be obtained from the Division of Water, Fort Boone Plaza, 18 Reilly Road, [Quality, 1065 Highway 127 South, Century Plaza,] Frankfort, Kentucky 40601.

(h) Toxics:

1. The allowable instream concentration of toxic substances [materials] which are noncumulative or [and] nonpersistent (half-life of less than ninety-six (96) hours) shall not exceed 0.1 of the ninety-six (96) hour median lethal concentration (LC50) of a representative indigenous aquatic organism(s).

2. The allowable instream concentration of toxic substances which are bioaccumulative or persistent, including pesticides, when not specified elsewhere in this section, shall not exceed 0.01 of the ninety-six (96) hour median lethal concentration (LC50) of a representative indigenous aquatic organism(s).

3. Where specific application factors have been determined for a toxic substance such as an acute/chronic ratio or water effect ratio, they may be used instead of the 0.1 and 0.01 factors listed in this subsection upon approval by the cabinet.

4. [3.] Maximum allowable instream concentrations for specific parameters are outlined in Table I [II].

Table I [II]
Warmwater Aquatic Habitat Criteria¹

Parameter [Contaminant]	[Maximum] Concentration [Level]
Arsenic	50 ug/l
Beryllium	11 ug/l soft water ²
	1100 ug/l hard water ²
Cadmium	4.0 ug/l soft water ²
	12.0 ug/l hard water ²
Chlordane	0.0043 ug/l
Chloride	600 mg/l
Chlorine, total residual	10 ug/l
Chromium	50 [100] ug/l
Cyanide, Free	5 ug/l
Hydrogen Sulfide (undissociated)	2 ug/l
Iron	1.0 mg/l ³
Mercury	0.2 [0.05] ug/l
Phenolic Compounds	5 ug/l
Phthalate Esters	3 ug/l
Polychlorinated Biphenyls	0.0014 ug/l
[Phenol]	5 ug/l]
Zinc	50 ug/l

¹Metal criteria, for purposes of this regulation, are total recoverable metals to be measured in an unfiltered sample.

²Soft water has an equivalent concentration of calcium carbonate (CaCO₃) of 0 to 75 mg/l, and hard water has an equivalent concentration of calcium carbonate (CaCO₃) of over 75 mg/l.

³[For low flow streams,] The daily average total recoverable iron concentration shall not exceed [is limited to] 3.5 mg/l when it is

established that there will be no damage to aquatic life.

(2) Coldwater aquatic habitat. The following parameters and their associated criteria are for the protection of productive coldwater aquatic communities and ["put and take" trout] streams which support trout populations (whether self-sustaining or reproducing) on a year-round basis. All of the criteria adopted for the protection of warmwater aquatic life also apply to the protection of coldwater habitats with the following additions:

(a) Dissolved oxygen:

1. A minimum concentration of six (6) mg/l as a daily average and five (5) mg/l as an instantaneous minimum shall be maintained at all times.

2. In impoundments which support trout, the concentration of dissolved oxygen in waters below the epilimnion shall be kept consistent with natural water quality.

(b) Temperature. Water temperature shall not be increased through man's activities above the natural seasonal temperatures.

(c) Total residual chlorine [residual]. The total residual chlorine [residual] shall not exceed two (2) ug/l as an instream value.

Section 5. [6.] Domestic Water Supply Use. Maximum allowable instream concentrations for specific parameters, to be applicable at the point of withdrawal for use for domestic water supply [withdrawal] from surface water sources are specified in Table II [III]:

Table II [III]
Domestic Water Supply Source Criteria¹

Parameter [Contaminant]	[Maximum] Concentration [Level]
Barium	1 mg/l
Chloride[, Total]	250 mg/l
Chromium[, Total]	0.05 mg/l
Color	75 Platinum-Cobalt Color Units
Copper	1 mg/l
Fecal Coliform	2000/100 ml (Geometric mean)
Fluoride[, Total]	1 mg/l
Lead	0.05 mg/l
Manganese	0.05 mg/l
[Mercury]	0.002 mg/l]
Methylene Blue Active Substances	0.5 mg/l
Nitrate (NO ₃ -N, as Total)	10 mg/l
Selenium	0.01 mg/l
Silver	0.05 mg/l
Sulfate[, Total]	250 mg/l
[Zinc]	5 mg/l]
Total Dissolved Solids	750 mg/l

¹See note 1 in Table I [II]

Section 6. [7.] Recreational Waters. (1) Primary contact recreation water. Primary contact recreation waters are waters suitable for full body contact recreation during the recreation season of May 1 through October 31.

(a) Fecal coliform content shall not exceed 200 colonies per 100 ml as a monthly geometric

mean based on not less than five (5) samples per month; nor exceed 400 colonies per 100 ml in more than twenty (20) [ten (10)] percent of all samples taken during the month; these limits are applicable during the recreation season. Fecal coliform criteria listed in subsection (2)(a) of this section apply during the remainder of the year.

(b) pH shall be between 6.0 to 9.0 and shall not change more than one (1) pH unit within this range over a period of twenty-four (24) hours.

(2) Secondary contact recreation water. Secondary contact recreation waters are waters suitable for partial body contact recreation, with minimal threat to public health due to water quality [during the recreation season of May 1 through October 31]. The following criteria apply to waters classified for secondary contact recreation use during the entire year.

(a) Fecal coliform content shall not exceed 1000 colonies per 100 ml as a monthly geometric mean based on not less than five (5) samples per month; nor exceed 2000 colonies per 100 ml in more than twenty (20) percent of all samples taken during the month. [Fecal coliform shall not exceed 5,000 colonies per 100 ml in more than ten (10) percent of the samples taken during any thirty (30) day period.]

(b) pH shall be between 6.0 to 9.0 and shall not change more than one (1) pH unit within this range over a period of twenty-four (24) hours.

Section 7. [8.] Outstanding Resource Waters. This classification category includes certain unique waters of the Commonwealth.

(1) Water for inclusion:

(a) Automatic inclusion. The following surface waters shall automatically be included in this category:

1. Waters designated under the Kentucky Wild Rivers Act.

2. Waters designated under the Federal Wild and Scenic Rivers Act.

3. Waters identified under the Kentucky Nature Preserves Act which are contained within a formally dedicated nature preserve or are published in the registry of natural areas and concurred upon by the cabinet.

4. Waters that support federally recognized endangered or threatened species under the Endangered Species Act of 1973, as amended. [Any surface waters designated under the Kentucky Wild Rivers Act, the Federal Wild and Scenic Rivers Act, or identified under the Kentucky Nature Preserves Act, or that support federally recognized rare or endangered species shall automatically be included in this category.]

(b) Permissible consideration. Other surface waters may be included in this category as determined by the cabinet [department] providing:

1. The surface waters flow through or are bounded by state or federal forest land, or are of exceptional aesthetic or ecological value or are within the boundaries of national, state, or local government parks, or are a part of a unique geological or historical area recognized by state or federal designation; or

2. They are a component part of an undisturbed or relatively undisturbed watershed that can provide basic scientific data and possess outstanding water quality characteristics; or two (2) of the following criteria:

a. Support a diverse or unique aquatic flora

or [and] fauna.

b. Possess physical or chemical characteristics that provide an unusual and uncommon aquatic habitat.

c. Provides a unique aquatic environment within a physiographic region.

(2) Outstanding resource waters designation: The classification of certain waters as outstanding resource waters shall fairly and fully reflect those aspects of the waters for which the classification is proposed. The cabinet [department] shall determine water quality criteria for these waters as follows: [on a case specific basis.]

(a) At a minimum, the criteria of Section 2 of this regulation and the appropriate criteria associated with the stream use classification assignments in 401 KAR 5:026, Section 7, are applicable to these waters.

(b) Where the values identified for an outstanding resource water are dependent upon or related to instream water quality, the cabinet shall review existing water quality criteria and determine whether additional criteria or more stringent criteria are necessary for protection. Adoption of more protective criteria in accordance with this section shall be listed with the respective stream segment in 401 KAR 5:026, Section 7, and will be subject to promulgation under Kentucky's administrative rulemaking procedures.

(3) Determination of classification:

(a) Any person may present a proposal to classify certain waters under this section. Documentation requirements in support of an outstanding resource water proposal shall contain those elements outlined in 401 KAR 5:026, Section 5. [The department will evaluate the proposal. The following shall be considered:]

[1. Existing water quality;]

[2. Current use;]

[3. Aesthetic, biological, morphological and habitat characteristics of the waters;]

[4. Occurrence of individuals or populations, indices of diversity and well-being, and abundance of species of any unique biota;]

[5. Economic and social consequences of the proposed classification;]

[6. Other justification given for the proposed classification.]

(b) The cabinet shall review the proposal and supporting documentation to determine whether the proposed waters qualify as outstanding resource waters within the criteria established by this regulation. The cabinet shall document the determination to deny or to propose reclassification, and a copy of such decision shall be served upon the petitioner and other interested parties.

(c) [(b)] After considering all of the pertinent data, a reclassification, if appropriate, shall be made pursuant to 401 KAR 5:026, Section 6.

Section 8. Exceptions to Criteria. (1) The cabinet may grant exceptions to the classification criteria contained in Sections 4, 5, 6 and 7 of this regulation upon demonstration by an applicant that maintenance of applicable water quality criteria are not attainable or scientifically valid but the use classification is still appropriate. This determination must be made on a case-by-case basis with respect to a specific stream segment following an analysis

for each area.

(2) The analysis must show that the water quality criteria cannot be reasonably achieved either on a seasonal or year-round basis due to natural conditions, site-specific factors differing from the conditions used to derive Sections 4, 5, 6 and 7 criteria, or the demonstration that meeting the criteria would cause substantial and widespread economic and social impact. Site-specific criteria shall be developed utilizing toxicity tests, indicator organisms, and application factors that are consistent with those outlined in "Water Quality Standards Handbook" (EPA, 1983). In addition, an applicant must supply the documentation listed in Section 5 of 401 KAR 5:026.

(3) In granting exceptions to water quality criteria, the cabinet shall ensure that the water quality standards of downstream waters are attained and maintained.

(4) All exceptions to water quality criteria will be subject to review at least every three (3) years.

(5) Upon completing a review and the procedures for promulgation under administrative rulemaking, all exceptions to water quality criteria shall be listed with the respective stream segment in Section 7 of 401 KAR 5:026.

[Section 9. Variances. (1) Waters for inclusion. The department may grant a variance to classification criteria upon adequate demonstration that maintenance of water quality criteria now applicable are not attainable but the use classification is still appropriate. This determination must be made on a case-by-case basis with respect to a specific stream segment following an analysis of each area. The analysis must show that the necessary water quality cannot be reasonably achieved due to economic and/or technological limitations and/or naturally occurring poor water quality. All exceptions will be temporary and subject to review at least every three (3) years.]

[(2) Designation under this section shall be final orders of the department and may be appealed pursuant to KRS 224.085.]

[Section 10. The provisions of this regulation are unseverable with 401 KAR 5:026, 401 KAR 5:029, and 401 KAR 5:035.]

CHARLOTTE E. BALDWIN, Secretary

APPROVED BY AGENCY: January 15, 1985

FILED WITH LRC: January 15, 1985 at 9 a.m.

PUBLIC HEARING SCHEDULED: A public hearing on this regulation will be held on Thursday, February 28, 1985 at 2 p.m. EST in the auditorium of the State Office Building in Frankfort. Those interested in attending this hearing shall contact: Robert W. Ware, Manager, Water Quality and Quantity Branch, Division of Water, 18 Reilly Road, Fort Boone Plaza, Frankfort, Kentucky 40601.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Donald J. Challman

(1) Type and number of entities affected. Generally the entities affected by this regulation irrespective of the proposed changes include: (1) entities required to treat wastewater (the regulated public); (2) fishing and recreational enthusiasts; and (3) the

general public. The oil and gas industry is most affected by the water quality criterion for chloride. Therefore, this industry is discussed separately from other affected entities.

Regulated Public Except Oil and Gas Producing Industry

Public and private entities who are required to treat wastewater, range from large municipal and industrial wastewater treatment plants, through small commercial establishments, to oil and gas facilities (see Table 1). Approximately 4,314 entities are subject to various provisions of the regulation. These include approximately 1,075 publicly-owned or operated facilities composed of 144 state-owned facilities; 128 federal-owned facilities; 390 county-owned facilities; and 413 facilities owned or operated by Kentucky municipalities or special purpose local government. Publicly held facilities include 275 municipal wastewater treatment plants; 63 industries; 8 subdivisions; 362 schools; 246 small sewage treatment plants; 5 recreational facilities; 2 agricultural interests; 1 oil lease; and 114 water treatment plants. The remaining 3,239 private entities required to treat wastewater consist of 1,235 industrial treatment systems; 251 subdivisions; 17 schools; 1,291 small sewage treatment plants; 2 recreational facilities; 320 agricultural interests; 113 oil leases; and 9 water treatment plants.

TABLE 1: FACILITY TYPE BY OWNERSHIP - 1984

FACILITY Type	OWNERSHIP						
	City/ Local	Pvt.	Co.	St.	Fed.	San. Dist.	Totals
Municipal	253	1	0	0	0	21	275
Industrial ¹	12	1235	6	2	43	0	1298
Sub- division	7	251	0	0	0	1	259
School	6	17	356	0	0	0	379
Small Sewage ²	7	1291	27	133	78	1	1537
Recrea- tional	3	2	1	0	1	0	7
Agricul- tural	0	320	0	2	0	0	322
Oil and Gas Facility	0	113	0	1	0	0	114
Water Plant	102	9	0	6	6	0	123
TOTAL	390	3239	390	144	128	23	4314

¹Consists of bituminous coal and lignite mining; other mining and quarrying; food and kindred products; chemicals and allied products; petroleum refining; rubber and plastics; stone, clay and glass manufacturers; primary metal industries; etc.

²Consists of eating and drinking places; real estate; hotels and other lodging places; amusement and recreation services; private households; air, highway, and water transportation services; wholesale trade; food stores; car dealers and service stations; etc.

SOURCE: Facility File, Kentucky Division of Water, 1984.

Oil and Gas Producing Industry

In addition to the above entities, the regulation directly impacts the oil and gas industry. This industry is particularly affected by the proposed numerical criterion for chloride deemed to be protective of Kentucky's aquatic life use classification.

On January 4, 1984, the Legislative Research Commission approved regulation 401 KAR 5:090, Control of water pollution from oil and gas facilities, which mandates underground injection or the transport and disposal off-site of produced water (brine) wherever economically feasible. According to the February 1983 Regulatory Impact Analysis (RIA) prepared for regulation 401 KAR 5:090, 31,440 oil and gas wells, leased or owned by 3,909 operators, were permitted by the Department of Mines and Minerals, Division of Oil and Gas (see Table 2). The impact analysis further indicated that "most sources estimate that approximately 15,500 producing oil wells and 8,500 producing gas wells (24,000 total wells) exist in the state."

TABLE 2: DISTRIBUTION OF PERMITTED OIL AND GAS
WELLS BY OPERATOR SIZE, NOVEMBER 1982

No. of Wells Per Opera- tor	OPERATORS		WELLS			
	No.	%	Cumula- tive %	No.	%	Cumula- tive %
1	1777	45.5	45.5	1777	5.6	5.6
2	653	16.7	62.2	1306	4.2	9.8
3	313	8.0	70.2	939	3.0	12.8
4	205	5.2	75.4	820	2.6	15.4
5	153	3.9	79.3	765	2.4	17.8
6	86	2.2	81.5	516	1.6	19.4
7	76	1.9	83.4	532	1.7	21.1
8	62	1.6	85.0	496	1.6	22.7
9	49	1.3	86.3	441	1.4	24.1
10	53	1.4	87.7	530	1.7	25.8
11-50	396	10.2	97.9			
51-100	53	1.4	99.3	23318	74.2	
Over 100	33	0.8	100.1			100.0
TOTAL	3909	100.1		31440	100.0	

SOURCE: Oil and Gas Permits, Oil and Gas Division, Mines and Minerals, University of Kentucky. Table included in RIA prepared for 401 KAR 5:090.

Approximately 25.8 percent of the 31,440 permitted (as opposed to producing) oil and gas wells in the state are owned by "small operators" with 10 or fewer leases according to the RIA prepared for 401 KAR 5:090. Although accounting for only a quarter of all oil and gas wells in the state, the analysis further indicated that 87.7 percent of all operators (3,428) were considered to be "small operators" as of November 1982.

Based on the above information for total permitted oil and gas wells, the RIA assumed a like distribution of wells per operator for only the 15,500 producing oil wells believed to be in Kentucky. Counting only producing wells, approximately 1,920 oil producers were operating in 1982. Of this total, approximately 1,684 oil

producers were considered to be "small operators." (See Table 3).

TABLE 3: ASSUMED DISTRIBUTION OF PRODUCING OIL WELLS BY OPERATOR SIZE, NOVEMBER 1982

Number of Wells Per Operator	Percentage of Wells ¹	Number of Wells ²	Number of Operators
1	5.6	868	868
2	4.2	651	326
3	3.0	465	155
4	2.6	403	101
5	2.4	372	74
6	1.6	248	41
7	1.7	264	38
8	1.6	248	31
9	1.4	217	24
10	1.7	264	26
11+	74.2	11,501	236
TOTAL	100.0	15,500	1,920

¹Taken from Table 2.

²Given an estimated 15,500 producing oil wells in Kentucky (based on a county inspector's count), the number of wells was calculated using the percentage distribution of wells in the preceding column.

SOURCE: Table included in the RIA prepared for 401 KAR 5:090.

This analysis makes the assumption that the entities which may be adversely affected due to compliance costs associated with 401 KAR 5:090 are the primary entities affected by this regulation. An exemption from the requirements of 401 KAR 5:090 can be granted when an economic hardship has been demonstrated. Under these circumstances the cabinet will consider a surface water discharge of brine. Those that cease production as the result of 401 KAR 5:090 and are requesting the exemptions are the same entities who would consider a surface water discharge. Any such discharge will be subject to water quality-based effluent limitations compatible with the 600 mg/l instream criterion for chloride.

Given the above assumption, many of the concepts discussed in the RIA for regulation 401 KAR 5:090 also apply with respect to this regulation, including certain characteristics of the primary entities affected (both type and number). For example, several factors were identified in the RIA which served to limit the entities directly impacted. First, only producing oil and gas wells are of concern. Second, the problem of brine disposal is principally associated with oil production as opposed to gas production. Third, most oil production occurs in the western part of the state where underground injection practices are less expensive and more prevalent. Entities most impacted will be in eastern Kentucky where many producers will have to change current disposal practices. Last, small operators are expected to bear the greatest burden, including possible well closure.

Under several capital investment scenarios, the RIA estimated that under the worst case situation, 463 operators would cease production

as the result of 401 KAR 5:090. The intermediate estimate was that 399 operators would shut down; the least impact scenario indicated that 328 operators would be affected. (Assumed capital investments of \$108,000, \$75,000 and \$48,000, respectively.)

The entities affected by this regulation are less, however, the difference being attributed to those who could possibly absorb the costs of a surface water discharge. Producers on large streams with sufficient assimilative capacity (dilution), and a controlled-release discharge could perhaps meet the 600 mg/l instream limit for chloride provided a modest investment. (See Appendix A for cost estimates.)

A surface discharge is not a feasible alternative when discharging to small, low-flow streams. Significant treatment will be required. The initial capital investment in current treatment alternatives are at or exceed the capital investments evaluated in the above scenarios. Installation of a Reverse Osmosis treatment system was estimated to require a capital investment of \$1,407,000, greatly exceeding the worst case scenario assumed in the RIA for 401 KAR 5:090. Secondly, this treatment only reduces the brine by one-third. (See Appendix A for cost estimate.) The operating and capital costs of a heat evaporation system were estimated to approach \$4 or \$5 per barrel, "making this procedure economically impractical relative to disposal by underground injection," according to the RIA. If the above entities could not afford the underground injection systems evaluated in the case scenarios, they will not be able to absorb the costs of a heat evaporation system. Other techniques such as ultra filtration, mechanical evaporation, and vapor recompression are also generally unfeasible alternatives.

Given all of the above arguments, the Cabinet estimates that something less than 300-500 oil producers will be impacted by this regulation. The difference in entities affected by this regulation as opposed to 401 KAR 5:090 is attributed to individuals who could possibly absorb the costs of a treated surface water discharge. No attempt has been made to determine this number. Few of the above operators are expected to be able to absorb these costs unless located on large streams with sufficient assimilative capacity to meet the 600 mg/l instream criteria for chloride. Even then, small operators controlling few wells will not be able to absorb the minimum costs associated with a controlled release discharge.

General Public and Other Entities

In addition to the regulated public mentioned in the preceding paragraphs, fishing and recreation enthusiasts, the aquatic environment of Kentucky, and the general public are affected by this regulation. Basin population projections for 1980 as contained in the River Basin Management Plan for Kentucky show 434,541 persons inhabiting the Green River Basin; 607,165 persons in the Kentucky River Basin; 309,478 in the Licking River Basin; 964,704 in the Ohio River Basin (including Tygarts Creeks, Tradewater and the Little Sandy drainages); 103,222 in the Lower Cumberland Basin; 260,273 in the Upper Cumberland Basin; 186,466 persons in the Big Sandy River Basin; 55,861 in the

Mississippi River Basin; 111,208 in the Tennessee River Basin; and 844,108 persons in the Salt River Basin. A large portion of the above population will benefit from maintaining viable fishery resources, water-based recreation, community water supplies, and the unique and outstanding characteristics of Kentucky's Outstanding Resource Waters.

Approximately 2.7 million Kentucky citizens will be impacted in a positive sense by the maintenance of community drinking water supplies derived from surface waters. Numerical criteria for assuring the bacteriological safety and chemical quality of raw surface water sources for domestic use will be applied at the point of withdrawal. Large communities benefiting from the maintenance of surface water supplies include Ashland, Hopkinsville, Owensboro, Lexington, Frankfort, Louisville, Fort Mitchell, Bowling Green, Fort Thomas, Elizabethtown, Paducah, Henderson and Madisonville. Intermediate size communities include Berea, Richmond, Lebanon, Maysville, Harrodsburg, Mt. Sterling, Greenville, Bardstown, Hartford, Hazard, Pikeville, Somerset, Morehead, Georgetown, Shelbyville, Franklin, Campbellsville, Corbin, Versailles, Jeffersonton, Barbourville, London, Radcliffe, Fort Knox, Cynthiana, Winchester, Glasgow, Danville, Florence, and Middlesboro. Additionally, many non-community surface water supplies serving approximately 31,468 Kentuckians will benefit. These range from many of Kentucky's schools and churches to mobile home parks to small restaurants and other commercial establishments. A complete listing is available upon request to the Division of Water's Drinking Water Branch.

According to a study by the U.S. Fish and Wildlife Service entitled the "National Survey of Fishing, Hunting, and Wildlife Associated Recreation - Kentucky," 734,600 Kentucky residents and 318,000 out-of-state residents fished in Kentucky lakes and streams in 1980. Based on the draft 1984 Statewide Comprehensive Outdoor Recreation Plan (SCORP), 37.9 percent of Kentucky's population will fish at least one time per year, equalling approximately 1.4 million individuals. Sample results of the revised 1984 SCORP, which are considered to be statistically reliable at the Area Development District level, also indicate that 29.4, 11.5, and 7.7 percent of the population will participate in boating, water skiing and canoeing activities, respectively. Taken together, approximately 1.7 million Kentuckians will spend at least one day per year boating, canoeing or water skiing.

Breakdowns for waterfowl hunting and beach swimming as contained in the 1978 SCORP were not included in the updated assessment. Individuals who participate in these activities will also be positively impacted by the regulation.

(a) Direct and indirect costs or savings to those affected.

1. First year:

Regulated Public Except Oil and Gas Industry

With the exception of the oil and gas industry, no additional costs in the short-run should result above that (1) already being incurred by wastewater treatment facilities

currently meeting their effluent limits; or (2) projected as necessary for the upgrade of wastewater treatment facilities not meeting their effluent limits. Since the proposed modifications do not represent a significant change from current management assumptions regarding attainable water quality, treatment requirements, and facility compliance, no new costs should result above that already required of and anticipated by various entities affected by this regulation (excepting the oil and gas industry).

Most of the proposed modifications (1) further clarify existing requirements; (2) improve various definitions and procedural aspects; or (3) attempt to harmonize the regulation with those of the federal government and Kentucky's neighboring states who are members of the Ohio River Valley Sanitation Compact (ORSANCO).

Perhaps the most significant changes (with the exception of chloride) relate to Outstanding Resource Waters and Exceptions to Criteria. Other changes include greater clarification of permissible water quality in mixing zones; improved temperature requirements; and numerical limits for zinc, PCBs and chlordane for the protection of aquatic life.

Technical arguments supporting these changes will be addressed in the affirmative consideration process. In terms of economic impacts, none of the changes are expected to significantly affect the regulated public. For example, changes made to the mixing zone and temperature provisions are the result of what is currently practiced by the state and regulated entities, although they are not clearly stated in the existing regulation. Secondly, the concentration of zinc, chlordane and PCBs are limited through the effluent permitting process as the result of federal requirements. These limitations have been added to the revised regulation.

This is not to say that the attainment of water quality, commensurate with instream numerical criteria, does not have cost impacts. Very significant expenditures of public and private funds are spent annually for capital improvements and facility operations. The distinction being made here is that these costs are not new costs resulting from the proposed regulatory changes. Entities affected are aware of these continuing, long standing facility compliance requirements.

Oil and Gas Producing Industry

In Section 1, the Cabinet presented the argument that the entities affected by this regulation are also the entities affected by regulation 401 KAR 5:090, Control of water pollution from oil and gas facilities. The Cabinet also believes that the economic ramifications of 401 KAR 5:090 also apply with respect to this regulation since the affected entities do not differ significantly. This includes certain statements and conclusions of the RIA relating to potential losses in production, employment and severance taxes.

Excerpts of the major findings of the RIA include:

- The direct impact on the oil and gas industry in Kentucky will be the costs of compliance with the new regulation. The cost of

compliance will include the capital investment required to install an acceptable system for discharging brine and the cost to operate that system.

- The total cost of compliance to the oil and gas industry in Kentucky, obviously, would depend on the method and combination of methods elected by the operators. It is impossible to consider all of the possible ways the industry may choose to comply. An estimate of total cost to the industry is further complicated because the volume of brine produced is unknown.
- Kentucky's production of oil and gas represents a small portion of the nation's and the regulation could not have a significant impact on domestic output. The following is a summary of the oil and gas industry in Kentucky.

In 1981, Kentucky's crude oil production was about 17.9 thousand barrels per day which represented approximately 0.21 percent of the nation's total production. Production of natural gas in Kentucky was about 63 billion cubic feet in 1981, or about 0.33 percent of the national output. The number of wells (oil, gas, dry, and service) drilled was 1,780 in Kentucky during 1981, this number represented approximately 2.2 percent of the wells drilled in the United States during 1981. Oil and gas production in Kentucky is small relative to the national total.

Oil and/or gas is produced in 63 of Kentucky's counties but most oil and gas production in the state occurs in a few counties. A cluster of 8 counties in western Kentucky accounts for approximately 55 percent of Kentucky's oil production (1982 figures), 8 counties in eastern Kentucky account for another 25 percent. And 85 percent of the state's production of oil is located in 17 counties. Natural gas is produced in 31 of Kentucky's counties but 8 counties produce about 90 percent of the total. Approximately 97 percent of the state's natural gas production is produced in eastern Kentucky.

- In certain markets, a regulation may cause firms to leave the industry to the extent that competition would be lessened. The oil and gas industry in Kentucky would not experience such an impact. This industry in Kentucky is made up of a few large firms and a larger number of small firms. The large firms would be able to absorb the regulation impact. Some of the small firms (operators) may leave the industry. With the departure of some small firms from the industry, the market structure would remain essentially the same: a few large firms and a large number of small firms.
- Oil and gas prices will be unaffected by the proposed regulation. Kentucky's contribution to the national market is so small that the domestic market would not be affected by any changes in the state's output or the cost of that output.
- Covered employment in the petroleum and natural gas industry (SIC 13) in 1981 amounted

to about 3,420 workers. About two-thirds of these were in the sub-category SIC 1311 (crude petroleum and natural gas), the category affected by the proposed regulations. SIC 1311 consists of establishments primarily engaged in operating oil and gas field properties.

Most of the covered employment in SIC 1311 is located in approximately 12 counties in eastern Kentucky and about 5 counties in west central Kentucky. In terms of Area Development Districts (ADDs), most of the employment is in the Big Sandy and Kentucky River ADDs in eastern Kentucky and in the Green River ADD of western Kentucky.

The adjustment costs associated with implementation of the proposed regulation include (a) the opportunity costs of resources unemployed as a result of compliance, (b) the costs associated with the reallocation of the unemployed resources, and (c) the payments made to the unemployed persons (e.g., unemployment compensation). Because relatively few persons will be affected, the adjustment costs associated with individuals are estimated to be insignificant; particularly when compared to the adjustment costs that normally occur in a technologically changing society. The maximum unemployment compensation in Kentucky is \$140 per week for a period of 26 weeks or for 39 weeks if the extended benefit program is in effect. Other than labor, the unemployed resources would be largely capital equipment. The adjustment costs associated with capital is difficult to quantify; it is assumed that some of the equipment is transferable easily to other sites for use.

- A reduction in oil and gas production would cause a multiple decrease in income and employment as a result of adverse secondary effects. These arise in two major ways - expenditures of unemployed workers for consumer goods decline and thus increase unemployment in consumer goods industries; raw materials, equipment, and other inputs to the oil and natural gas drilling sector decline and cause secondary unemployment to rise.

The size of the "multiplier" effect indicates the extent to which the initial change in employment and income will affect related industries. Although the size of the multiplier is presumed to vary over time, and to differ from area to area and industry to industry, the range of possible values can be specified. For example, the Associated Industries of Kentucky assumes a multiplier of 1.74 for new manufacturing jobs in Kentucky. In other words, for example, for every 100 new manufacturing jobs in the state, an additional 74 jobs would be created in related nonmanufacturing jobs.

Another recent study focuses on the multiplier in terms of the local impact for Kentucky. According to this study, the local impact multiplier for mining is about .85 in small Kentucky counties (population less than 15,000) and about 1.02 in large counties (population more than 15,000).

Two other studies consider the total employment impact slightly higher than 2 for mining. A University of Missouri study sets the multiplier at 2.33; a U.S. Department of Interior study, at 2.20.

Thus it might be concluded as a best estimate that the multiplier for Kentucky oil and natural gas drilling would be about 2. Each job lost in the oil and gas fields would result in an additional job lost in related sectors.

- The oil production tax (KRS 137.120) amounts to 4.5 percent of the market value of crude petroleum produced in Kentucky. The tax applies when the crude petroleum is first transported from the tanks or other receptacle located at the place of production.

The natural gas tax, a mineral tax (KRS 143A.010 and 143A.020) amounts to 4.5 percent of the gross value of the product. It is levied on every taxpayer engaged in severing and/or processing of natural gas and natural gas liquids.

Since mid-1981, an amount equal to one-half of the tax collected on natural gas and oil is transferred to the Local Government Economic Assistance Fund (KRS 42.450(2)). Funds are distributed among the mineral producing counties on the basis of taxes collected on several minerals (KRS 42.470). However, 10 percent of the funds allocated to each county are allotted to incorporated areas within the county in accordance with their population as a portion of population of the county (KRS 42.475).

During calendar year 1982, the tax severance on oil production amounted to \$10,307,000; on gas, \$3,262,000. During fiscal year 1981-82, allocations made to county governments from severance taxes on all minerals amounted to \$8,542,000; to city governments, \$947,000. It is estimated that oil and gas severance taxes account for 90-95 percent of the total mineral severance tax.

- About 97 percent of Kentucky's total production of natural gas is in eastern Kentucky as part of the Appalachian Basin; the remaining 3 percent is in western Kentucky as part of the Illinois Basin. Petroleum production in contrast is centered more in western Kentucky with about 75 percent located there. Output of natural gas and oil by major producing county for 1982 is shown in Table 4.
- To the extent that future production of oil and gas may be lost from the impact of the proposed regulation, it will be due largely to small operators leaving the industry. Moreover, the greatest impact will be in eastern Kentucky.

Under the worst case situation, annual production loss (oil) is estimated to be approximately \$14.4 million, and the severance tax revenue loss would be \$650 thousand; the number of operators ceasing operations would be approximately 463.

The least impact is estimated to be a production loss of \$5.5 million, a loss of \$248 thousand in severance tax, and 328 operators ceasing operation.

The intermediate estimate is a loss in production of \$8.7 million, and a loss of \$390 thousand in severance tax. An estimated 399 operators would cease production.

As a percent of Kentucky's fiscal year 1983-84 budget, the estimated loss of severance tax would be as follows: high estimate, 0.028 percent; low estimate, 0.009 percent, intermediate estimate, 0.015 percent.

The loss of gas production is more difficult to assess. It appears that no more than 20 percent of natural gas wells produce water and some of the water produced is potable. The regulation would have an impact on gas production but this impact would be less than on oil production.

TABLE 4: MAJOR OIL AND GAS PRODUCING COUNTIES IN KENTUCKY, 1982

<u>Natural Gas</u>		<u>Oil</u>	
County	Quantity (MCF)	County	Quantity (barrels)
Pike	17,575,846	Henderson	1,164,211
Floyd	11,232,374	Union	656,415
Knott	8,744,975	Muhlenberg	603,095
Leslie	5,544,206	Lee	535,593
Martin	4,420,210	Clinton	403,465
Perry	3,993,300	Daviess	382,283
Letcher	3,195,795	Webster	343,785
Hopkins	1,261,949	McClean	304,381
Grayson	943,838	Ohio	288,752
Bell	931,226	Hopkins	281,919
Clay	867,906	Adair	239,091
Lawrence	508,190	Cumberland	223,101
All other counties	3,165,538	Magoffin	203,478
State Total	62,385,353	Letcher	161,995
		Perry	151,028
		Lawrence	132,343
		Johnson	110,903
		All other counties	1,080,343
		State Total	7,265,181

SOURCE: Kentucky Revenue Cabinet. Table included in RIA of 401 KAR 5:090.

Barring adjustments due to more recent data and inflation, the cabinet believes the above estimates reflect the degree and magnitude of the socioeconomic ramifications associated with this regulation. As stated previously, the cabinet will consider a surface water discharge compatible with the instream chloride criteria only when all of the requirements of 401 KAR 5:090 have been exhausted. Persons who are possibly considering a surface discharge include those who cannot meet the requirements of 401 KAR 5:090 due to demonstrated economic considerations. Certainly those ceasing production as the result of 401 KAR 5:090 could demonstrate an economic hardship. These individuals are the ones principally impacted by this regulation.

Since the entities affected are unchanged, and since the costs of treating a surface water discharge are comparable to those of the injection systems evaluated in the RIA prepared for 401 KAR 5:090, there is no good reason to believe that entities will be better able to comply with this regulation. Therefore the attendant loss in production, employment and severance taxes associated with 401 KAR 5:090, also apply with respect to this regulation. If anything, the socioeconomic implications of this regulation will be less. Some amount of the affected entities will be able to absorb the costs of a surface discharge if located on large streams with sufficient assimilative capacity to meet the 600 mg/l chloride limit. In this regard, the above impacts represent the worst case scenario.

General Public and Other Entities

Savings to entities affected primarily relate to maintaining community water supplies, viable fishing resources, water-based recreation, and Kentucky's unique and exceptional outstanding resource waters.

- Drinking Water Criteria:

The maintenance of community water supplies derived from surface sources has already been mentioned in Section 1. 316 million gallons per day are withdrawn from Kentucky surface waters for rural self-supplied or public water use. Approximately 2.7 million Kentuckians will benefit from maintaining water supplies vital for domestic use. Maintenance of those water supplies is also vital for agricultural, power, and industrial uses, and for the sustained economic growth and development of the Commonwealth.

Based on total 1980 surface water withdrawals exceeding 1 billion gallons per day, stream and hydro electric power generation, representing 97.5 percent of the total, is by far the largest water consumer in the state. Agricultural and industrial uses are also fairly significant water consumers, withdrawing 42 and 190 million gallons per day, respectively. Obviously the quality and quantity of surface waters is a significant factor in the continued viability of Kentucky agriculture. 88 percent of agricultural withdrawals were for livestock watering purposes. The remaining portion was devoted to irrigated crop production. Likewise, the quality of water is crucial to Kentucky's food and beverage processing industry. It is also a concern in other commercial, manufacturing, and industrial purposes.

- Aquatic Life and Recreation Water Quality Criteria:

The water quality program of Kentucky among other things, is integral to maintaining and expending viable fishery resources and water-based recreational opportunities. Basically, the program establishes minimum instream water quality criteria that must be maintained to protect aquatic life and the health and safety of recreational users. In this manner, viable fishing resources and other forms of water-based recreation can be maintained to support Kentucky's growing fishing and tourism

industry.

The value individuals place on leisure and recreation opportunities manifests itself in time, and tangible expenses for transportation, lodging and subsistence, equipment, and other fees. Total expenditures associated with Kentucky's tourism industry in 1983 amounted to \$2.3 billion of which \$1.36 billion were direct expenditures. Additionally, 101,708 individuals were employed in tourism related activities or supporting enterprises. State and local taxes accruing from recreational activities in 1983 amounted to \$126.9 million and \$30.7 million respectively (personal communication with Tourism Cabinet).

In Kentucky's major recreational lake regions, the Western Lakes and Lake Cumberland Regions, the Tourism Cabinet reported that direct expenditures amounted to \$122.6 million and \$66.7 million, respectively. Employment in these regions attributed directly to recreation amounted to 10,596 jobs. The counties of Marshall, McCracken, Russell, and Pulaski benefit the greatest from the tourism dollar in the lake regions.

The above figures represent total tourism expenditures in the state whether water-related or not. Figures provided for the lake regions, however, are principally water oriented.

To further illustrate the importance of Kentucky's fishery resource, a significant amount of revenue is received by the state, local units of government, and the private sector in the form of privilege fees, licenses, tags, and permits; and expenses associated with bait and tackle, food and lodging, and transportation of in and out of state residents. In 1980 dollars, the U.S. Fish and Wildlife Service reported that \$62.8 million were spent for food and lodging, representing a per-sportsman expenditure of approximately \$81.03. Other expenses for all 1980 fishing in the Commonwealth included \$54.9 million in transportation expenses; \$6.7 million in privilege fees; \$5.6 million in licenses, tags, and permits; and \$28.3 million in fishing equipment. Overall, Kentucky ranks 25th among the 50 states and the District of Columbia in the amount of expenditures associated with fishing.

Tangible expenses for other activities such as water skiing, boating, and canoeing are unknown at the present. In the absence of this more concrete measure of value, however, an examination of the time spent in the activity and probable opportunity costs can give some indication of value. Opportunity costs relate to the opportunities individuals are willing to forego for a day of water-based recreation such as lost wages and salaries.

As background information, the 1978 Statewide Comprehensive Outdoor Recreation Plan (SCORP) projected facility deficits through 1995 for virtually all water-based recreation activities. Largely attributed to a difference in methodology, the draft 1984 SCORP shows no deficits in water-based recreation opportunities on a statewide basis with the exception of hunting (some portion of hunting category includes waterfowl). In fact, the draft 1984 SCORP shows a surplus in facilities for canoeing, boating, fishing and water skiing.

Nevertheless, using the participation rates determined through the planning process of the

draft 1984 SCORP, there exists a significant demand for fishing, waterskiing, boating and canoeing on a statewide basis. On average, both rural and urban Kentuckians will spend nearly four days per year fishing, two and one-half days per year boating, eight-tenths of a day per year water skiing, and one-quarter of a day per year canoeing. When multiplied by the resident population of the state (3.7 million), this cumulatively equals 27.1 million visitor-days per year. Broken down, 14.5 million visitor-days per year will be spent fishing; 8.8 million visitor-days per year boating; 3.0 million visitor-days per year water skiing; and 841,000 visitor-days per year spent canoeing.

Although this analysis does not attempt to precisely measure opportunity costs, it is safe to assume that significant opportunity costs are represented by the above user rate figures. Even at the current minimum wage rate, opportunity costs easily represent hundreds of millions of dollars in wages and salaries that individuals are willing to forego for water-based recreation opportunities.

This, of course, is a simplification of reality as not all individuals are minimum wage earners. Additionally as mentioned earlier, opportunity costs are only one measure of value. Distance travelled to the site, lodging and subsistences at the site, privilege fees for the use of the resource, and other expenses must be included for a more accurate description of their worth and value. Unfortunately, this information is not available. However, Kentuckians obviously place significant value on the easy access to and quality of water-based recreation activities provided by the state. They also expect that their health and safety will be safeguarded while participating in these activities.

- Outstanding Resource Water Criteria:

Regarding outstanding resource water criteria and resulting benefits, aesthetics and the intrinsic value of preserving Kentucky's aquatic environment for present and future generations are appropriate and important parameters to investigate. Unfortunately, the degree and quality of a user's experience and the value society places on preserving our natural heritage are intangible qualities which are difficult to measure.

No attempt is made here to estimate the worth and value of protecting threatened and endangered species to the Commonwealth or the nation. Suffice it to say that it is a national goal to protect species of fish, wildlife, and plants which are threatened or endangered with extinction based on the congressional finding "that these species are of aesthetic, ecological, educational, historical, recreational, and scientific value to the nation and its people" (Endangered Species Act of 1973, PL 92-740 as amended). The Commonwealth of Kentucky is mandated by the federal government to protect species of fish, wildlife, and plants that are given this special distinction under PL 92-740.

Tangible expenses associated with Kentucky's eight Wild Rivers are unknown at present. Again, the time spent on the activity is an indication of their worth and value. If past user rates are indicative, there exists a significant demand

for primitive recreation experiences such as canoeing, fishing, hunting, hiking, and camping along Kentucky's relatively undisturbed Wild River corridors. Table 5 summarizes present demand versus estimated carrying capacity for various recreation activities at 5 of the 8 rivers. These estimates are not directly comparable since (1) different periods of record were used for each segment; (2) user rates sometimes included stream mileage above or below Wild Rivers; and (3) management assumptions differed for various river courses.

In general, the data indicates that user rates for canoeing and fishing are within the carrying capacity provided by the resource. With the exception of the Rockcastle River, canoeing and fishing can be expanded without degrading the resource or a user's experience. For hunting and hiking, user rates exceed available capacity in all of the segments with reported data. Finally, for camping, user pressure versus carrying capacity is mixed. In the scenic Red River Gorge, existing camping far outnumbers the available resource for this activity. Conversely, user rates for camping in the Cumberland and Rockcastle River corridors is within carrying capacity and could be expanded.

In summary, past data indicates that from 20,740 to 21,195 visitor-days were recorded for canoeing; 30,240 to 37,874 visitor-days for fishing; 32,720 to 38,144 visitor-days for hunting; 35,246 visitor-days for hiking; and 85,400 visitor-days for camping along only four of Kentucky's eight Wild Rivers. Estimates for the other Wild Rivers are unavailable, but these rivers are also regularly travelled and add to the above estimates. This is especially true of the Green Wild River which is situated wholly within the boundary of the Mammoth Cave National Park.

TABLE 5: ESTIMATED USE RATES AND CARRYING CAPACITY FOR SELECT KENTUCKY WILD RIVERS (VISITOR-DAYS)

	Canoeing	
	User Rates	Carrying Capacity
Little South Fork	NR	6,636
Cumberland River ¹	16,500	21,565
Rockcastle River ²	960-1,415	16,512
Red River ³	3,280	5,040
Rock Creek ⁴	NR	NR
TOTALS	20,740-21,195	
	Fishing	
	User Rates	Carrying Capacity
Little South Fork	NR	11,115
Cumberland River ¹	16,400	30,602
Rockcastle River ²	3,300-10,934	992
Red River ³	2,440	10,700
Rock Creek ⁴	8,100	14,108
TOTALS	30,240-37,874	

	Hunting	
	User Rates	Carrying Capacity
Little South Fork	NR	357
Cumberland River ¹	20,100	865
Rockcastle River ²	1,200-6,624	1,336
Red River ³	3,620	375
Rock Creek ⁴	7,800	1,708

TOTALS 32,720-38,144

	Hiking	
	User Rates	Carrying Capacity
Little South Fork	NR	20,657
Cumberland River ¹	10,500	140,286
Rockcastle River ²	606	9,460-47,300
Red River ³	19,540	29,200
Rock Creek ⁴	4,600	42,924

TOTALS 35,246

	Camping	
	User Rates	Carrying Capacity
Little South Fork	NR	NR
Cumberland River ¹	11,600	69,350
Rockcastle River ²	4,400	8,600
Red River ³	59,500	7,300
Rock Creek ⁴	9,900	6,800

TOTALS 85,400

Footnotes:

NR - Not reported

¹User rates based on 1977 visitor-days (includes public land only)

²Range estimates derived from two sources (1974 and 1978) - user rates include mileage not in Wild River

³User rates include all Wolfe County area of Daniel Boone National Forest in and adjacent to segment

⁴User rates based on 1975 visitor-days

SOURCE: Kentucky Wild River Management Plans, Miller/Wihey/Lee Inc. (1980)

2. Continuing costs or savings: Continuing costs or savings over the long term cannot be readily enumerated without a detailed analysis of regional economic development and population trends. Many streams, rivers, and lakes in the Commonwealth cannot assimilate the wastes associated with growth and development without a corresponding increase in the size and sophistication of wastewater operations and processes. Over time, more expensive treatment will undoubtedly be required and particularly for new dischargers.

Treatment requirements will increase for new source applicants and expansions of existing facilities, mandating advanced secondary treatment (where applicable) which employs more sophisticated unit processes for the reduction of carbonaceous and nitrogenous oxygen demanding materials and suspended solids. Advanced secondary treatment can ordinarily be achieved or exceeded by conventional activated sludge,

fixed film lagoons, or land application processes, supplemented by some form of filtration, absorption, or chemical treatment. The exact treatment needs and costs of individual dischargers is case-specific depending on technology employed, waste characteristics and size. Therefore, aggregate costs cannot be determined.

3. Additional factors increasing or decreasing costs (note any effects upon competition): None determined.

(b) Reporting and paperwork requirements: This regulation does not contain any reporting or paperwork requirements. The regulation specifies legitimate stream uses as well as minimum criteria for protecting these uses. Use designations and numerical and narrative criteria (standards) provide the scientific and legal basis for the Commonwealth's water pollution control program. Standards are used in the (1) determination and assignment of effluent limits by permit to individual dischargers; (2) evaluation of their performance through testing and monitoring; and (3) enforcement process leading to compliance. The regulation does not by itself impose paperwork requirements.

(2) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings:

1. First year: Changes as specified in this regulation will have no effect on the operation or costs of the Natural Resources and Environmental Protection Cabinet. The Cabinet has already implemented the requirements of this regulation and has internalized associated costs within normal budget appropriations. This regulation as it relates to the operation of the Cabinet does not change the basis for routine procedures involved in managing construction grants, permitting, compliance monitoring, or enforcement.

2. Continuing costs or savings: Same as (2)(a)1. above.

3. Additional factors increasing or decreasing costs: None determined.

(b) Reporting and paperwork requirements: Changes in this regulation will not affect the amount of paperwork of the Natural Resources and Environmental Protection Cabinet. Again, the regulation states minimum criteria for protecting legitimate stream uses, providing the basis for permitting, compliance monitoring, and enforcement actions where necessary.

(3) Assessment of anticipated effect on state and local revenues: Over the long run, compliance with this regulation will increase the revenue outlays of state and local government for necessary wastewater treatment. Again, however, the distinction being made here is that these costs are not new costs resulting from this regulation and entities affected are aware of these continuing, long-standing facility compliance requirements. No substantial changes are being proposed which would raise revenue outlays in the short-run.

The proposed criteria for chloride, however, will have a negative impact on the revenue receipts. Counties and the state who receive revenues in the form of severance payments from the production of oil and gas could see a decline in these revenues. The RIA for regulation 401 KAR 5:090 indicated that under the worst case a \$650,000 severance tax revenue loss would result. Under the least impact case,

\$248,000 in severance tax revenue would be lost.

The major oil producing counties are expected to be impacted. These include the counties of Henderson, Union, Lee, Muhlenberg, Clinton, Daviess, Webster, McLean, Ohio, Hopkins, Adair, Cumberland, Magoffin, Letcher, Perry, Lawrence and Johnson. The greatest impact is expected to occur in the eastern and south central Kentucky counties of Clinton, Magoffin, Letcher, Perry, Lawrence, Cumberland and Johnson.

(4) Assessment of alternative methods; reasons why alternatives were rejected: Several alternatives were considered but rejected when revising the proposed water quality standards regulation. One commentor suggested that cadmium, arsenic, and bromide be added to the contaminant list for the domestic water supply classification. The warmwater aquatic habitat criteria contain arsenic and cadmium limits which meet or nearly meet the levels protective for domestic water supply. These criteria would apply to waters used for domestic water supply and thus be protective of human health. No maximum contaminant levels have been developed for bromides in drinking water. Until this is done, bromides cannot be added to the list.

One other commentor suggested that streams with naturally occurring flows of less than one cubic foot per second (cfs) be exempted from water quality standards and that the standards not apply to streams when the flow is less than the seven-day, ten-year low flow. No blanket exemption of streams with low flows of one cfs or less than the seven-day, ten-year low flow is contemplated. Flows may be considered under site-specific criteria development. Discharges are not considered to be in violation of stream standards when natural waters have characteristics outside of the limits established by the standards and the discharge is meeting permit limits.

Other suggestions have been incorporated into the revised regulation. Additionally, certain minor changes were necessary to clarify existing requirements and practices of the state and regulated community.

(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: No statutes, rules, regulations, or government policies were determined to be in conflict with this regulation. Several changes were made to harmonize the regulation with recent changes in federal regulations and those of Kentucky's neighboring states in regard to managing the Ohio River.

(a) Necessity of proposed regulation if in conflict: Not applicable.

(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions: Not applicable.

(6) Any additional information or comments: None provided.

Tiering:

Was Tiering applied? No. Tiering was not applied since the regulation affects all entities required to treat wastewater irrespective of facility ownership, capacity, or unit processes or treatment employed.

APPENDIX A

Cost Estimate for Disposal by Dilution

1. Assume:
 - (a) A 10 well field producing 100 barrels of water per day;
 - (b) A lagoon for primary holding already exists;
 - (c) A stream with adequate receiving capacity is within 1/2 mile of the lagoon;
 - (d) The TDS of the produced water averages about 100,000 ppm; and
 - (e) The dilution level is 300/1 to 500/1.
2. Equipment Requirements:

Aeration equipment	\$ 2,000
Sand/gravel filter	5,000
Two pumps	2,000
1/2 mile of 2" polyethylene pipe	3,000
Valves	200
Distributor for stream injection	300
Estimated cost	\$12,500
5 year straight line depreciation =	\$2,500/yr.
3. Operating cost:

Electricity - 150 Kwh/day	\$12/day
Chemicals	5/day
Labor (part time)	10/day
Maintenance	1/day
Estimated cost	\$28/day
4. Total cost:

Operating cost	\$28/day
Capital cost (\$2,500/yr.)	7/day
Total cost	\$35/day

\$35/day divided by 100 barrels/day = \$.35/barrel.

SOURCE: RIA prepared for 401 KAR 5:090, February 1983.

Cost Estimate for Reserve Osmosis

1. At 25°C a 3.5% (35,000 ppm) salt solution (typical of sea water) has an osmotic pressure of 28 atmospheres or 435 psig.
2. Assuming 100,000 ppm (10%) is a typical oil well brine, the osmotic pressure at this brine is 90 atmospheres or 1350 psig.
3. At 35% (350,000 ppm) the osmotic pressure is 385 atmospheres or 5775 psig. This concentration is approaching saturation.
4. Pressures required to effect reverse osmosis, must be in excess of the osmotic pressures, e.g., over 1350 psig for a 10% solution. As concentration is increased in the brine by reverse osmosis, the required pressure will increase. To achieve a 50% volume reduction will require pressures of at least 3000 psig. A 1966 example of a mgpd reverse osmosis sea water plant shows the following:

Feed TDS	35,000 ppm
Recovered water stream	250 ppm
Reject brine stream	52,500 ppm
Percent water recovery	33%
Membrane life	0.5 year
Operating pressure	750 psig
Plant capital cost (1966 dollars)	\$1,407,000
Water cost/100 gal. (1966 dollars)	\$0.91

Regardless of capital and operating costs, the brine has been reduced by one-third, and the problem has not been solved. Even at saturation (if that were possible by reverse

osmosis), operating pressures of 6000 psig would be required and the oil brine would be reduced by only 75% (100 barrels reduced to 25 barrels).

SOURCE: RIA prepared for 401 KAR 5:090, February 1983.

Cost Estimate for Heat Evaporation

1. Assume 1000 barrels/day formation water with a 10% salt content:
1000 barrels/day = 350,000 pounds/day of brine or at 10%, 350,000 pounds = 315,000 pounds of water and 35,000 pounds of salt.
2. Assume spray drying in conical towers, direct fired natural gas unit operating at 80% efficiency, and salt collection in conical bottoms. The heat required to evaporate the water associated with 1000 barrels of brine/day is:

60°F to 212°F	152 Btu
212°F (liquid) to 212°F	970 Btu
Steam at 250°F	16 Btu
Equipment and product losses	250 Btu
Total	1,388 Btu/pound brine

 1000 barrels/day = 315,000 pounds of water
 315,000 pounds of water x 1,388 Btu/pound = 440 x 10⁶ Btu/1000 barrels.
3. Cost/1000 barrels (energy only):
 Natural gas cost = \$6.59/mcf or
 \$6.59/1,000,000 Btu
 440 x 10⁶ Btu x \$6.59/10⁶ Btu = \$2,900/
 1,000 barrels = \$2.90/barrel brine
4. Sale of salt (3¢/pound):
 35,000 pounds/1000 barrels x \$0.03 = \$1,050
5. Total energy cost \$2,900
 Less salt value -1,050
 Net energy cost \$1,850 =
 \$1.85/barrel*

*Exclusive of other operating and capital costs; all costs considered, the total cost would approach \$4 to \$5 per barrel.

SOURCE: RIA prepared for 401 KAR 5:090, February 1983.

LOCAL MANDATE IMPACT STATEMENT

SUBJECT/TITLE: Water Quality Standards
 SPONSOR: Natural Resources and Environmental Protection Cabinet/Department for Environmental Protection/Division of Water

NOTE SUMMARY

LOCAL GOVERNMENT MANDATE: Yes

TYPE OF MANDATE: Requirement Mandate/

Programmatic - Quality/Quantity

LEVEL(S) OF IMPACT: City, County, Urban County Government

BUDGET UNIT(S) IMPACT: Publicly-Owned Treatment works

FISCAL SUMMARY: Refer to fiscal explanation

MEASURE'S PURPOSE: Specifies use classifications for warm and coldwater aquatic habitat, drinking water (at points of withdrawal), recreation, and outstanding resource waters as well as narrative and numerical criteria to protect and maintain these uses.

PROVISION/MECHANICS: Regulation specifies that warmwater aquatic habitat, coldwater aquatic habitat, primary contact recreation, secondary contact recreation, domestic drinking water (at points of withdrawal), and outstanding resource water use classifications shall be applied

(where applicable) to certain streams of Kentucky. Numerical and/or narrative criteria (water quality standards) associated with each use classification provides the basis from which effluent limits are derived that must be met by waste dischargers in the basins in order to protect and maintain the legitimate beneficial uses of the subject waters.

FISCAL EXPLANATION: Publicly-owned treatment works in the basins will be subject to limitations imposed by the use classifications and associated numerical and/or narrative criteria. In the short-run, no additional costs above that already required of local government should result. In the long-run, many of the basins cannot assimilate the wastes associated with growth and development without a corresponding increase in the size and sophistication of wastewater operations and processes. Treatment requirements over time may increase for new source applicants and expansions of existing facilities, mandating more expensive advanced secondary treatment. A detailed analysis of regional economic development and population growth would be required to determine treatment needs in each basin. Additionally, the exact treatment costs of individual dischargers is case-specific depending on technology employed, waste characteristics, and size. Therefore, aggregate costs cannot be determined.

Proposed criteria for chloride will have a significant affect on the oil and gas producing industry. As a consequence, revenues received by oil producing counties in the form of mineral severance tax payments may decrease. The RIA prepared for this regulation indicates that under the worst case situation a \$650,000 severance tax loss would result. The intermediate and least cost cases indicated a \$390,000 and \$248,000 severance tax loss, respectively. As a percent of Kentucky's fiscal year 1983-84 budget, the estimated loss of severance tax would be as follows: high estimate, 0.028 percent; low estimate, 0.009 percent; intermediate estimate, 0.015 percent.

Major oil producing counties affected include Henderson, Union, Lee, Muhlenberg, Clinton, Daviess, Webster, McLean, Ohio, Hopkins, Adair, Cumberland, Magoffin, Letcher, Perry, Lawrence, and Johnson. The greatest impact is expected to occur in the eastern and south central Kentucky counties listed above.

PREPARER: Donald J. Challman

NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION CABINET Division of Water Patrol (Proposed Amendment)

402 KAR 4:190. Zoned use areas.

RELATES TO: KRS 235.240, 235.280, 235.300, Executive Order 80-125

PURSUANT TO: KRS [13.082,] 74.080, 235.280, 235.320, Executive Order 80-125

NECESSITY AND FUNCTION: KRS 235.280[, as amended on March 1, 1980 by Executive Order 80-125,] directs the Division of Water Patrol [Security and Compliance] to promulgate regulations to govern the fair, reasonable, equitable, and safe use of the state's waters. This regulation implements the division's

responsibility in those areas in regard to specific areas of water within the state where certain activities might be hazardous or undesirable. Section 5 is added to protect fishermen and occupants of nonmotorized vessels who frequent the area indicated.

Section 1. No person shall operate a motorboat or other powered vessel towing persons on water skis, surfboards, or similar devices on the water of Herrington Lake, except along the main channel of said lake.

Section 2. No person shall operate a motorboat or other powered vessel at a speed greater than idle speed in any of the inlets of Herrington Lake [known as Rocky Fork, Cane Run, Tanyard Branch and McKecknie Branch].

Section 3. No person shall operate a motorboat or other powered vessel towing persons on water skis, surfboards, or similar devices on the waters of the Little Sandy River.

Section 4. Except for the purpose of locking through the locks of McAlpin Dam, or docking at the Louisville Municipal Wharf, no recreational vessel may be operated on the Ohio River between the Second Street Bridge and McAlpin Dam. Vessels traversing this area must stay within the confines of the commercial channel.

Section 5. No person shall operate a motorboat or other powered vessel at a speed greater than idle speed on the waters of the Salt River within the confines of Mercer County.

JOE KELLY, Director

CHARLOTTE E. BALDWIN, Secretary

APPROVED BY AGENCY: January 14, 1985

FILED WITH LRC: January 15, 1985 at 11 a.m.

PUBLIC HEARING SCHEDULED: A public hearing on this proposed regulation will be held on February 28, 1985, at 1:30 p.m. in the Water Patrol building at 107 Mero Street, Frankfort, Kentucky. A person interested in attending this hearing shall submit by February 23, 1985, a written request to: Joseph W. Kelly, Director, Division of Water Patrol, 107 Mero Street, Frankfort, Kentucky 40601.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Joe Kelly

(1) Type and number of entities affected:

(a) Direct and indirect costs or savings to those affected: No costs or effects on competition.

1. First year:

2. Continuing costs or savings:

3. Additional factors increasing or decreasing costs (note any effects upon competition):

(b) Reporting and paperwork requirements: No reporting or paperwork requirements.

(2) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings: No costs or effects on promulgating body.

1. First year:

2. Continuing costs or savings:

3. Additional factors increasing or decreasing costs:

(b) Reporting and paperwork requirements: No

reporting or paperwork requirements.

(3) Assessment of anticipated effect on state and local revenues: There will be no effect on state or local revenues.

(4) Assessment of alternative methods; reasons why alternatives were rejected: The only alternative would be to not have a no wake zone which would be hazardous to boaters.

(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: No conflict, overlapping, or duplications exist relative to this regulation.

(a) Necessity of proposed regulation if in conflict:

(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions:

(6) Any additional information or comments:

Tiering:

Was tiering applied? Tiering was not applied. Tiering was not applicable since this regulation will be applied equally across the board.

TRANSPORTATION CABINET Department of Highways Division of Traffic (Proposed Amendment)

603 KAR 5:050. Uniform traffic control devices.

RELATES TO: KRS 189.337[(2)]

PURSUANT TO: KRS [13.082, 174.050,] 189.337

NECESSITY AND FUNCTION: KRS 189.337(2) authorizes the [Department of] Transportation Cabinet, Department [, Bureau] of Highways, to adopt a uniform system of traffic control devices. This regulation defines the system.

Section 1. The standards and specifications set forth in the Federal Highway Administration publication [federal] "Manual on Uniform Traffic Control Devices for Streets and Highways" (1978 Edition, and subsequent amendments thereto) shall apply to all traffic control devices installed on any road or street. Satisfactory operating traffic control devices in use on the effective date of this regulation may continue to be used; however, if such devices are replaced or revised, they must be made to conform with the standards and specifications of the manual.

Section 2. A copy of the Federal Highway Administration publication [federal] "Manual on Uniform Traffic Control Devices for Streets and Highways" (1978 Edition and Revisions No. 1 and No. 2 dated December, 1979 and December, 1983 respectively) is hereby incorporated by reference as part of this regulation. [Subsequent amendments to this manual will be made in accordance with KRS Chapter 13.]

Section 3. Copies of the Federal Highway Administration publication "Manual on Uniform Traffic Control Devices for Streets and Highways" may be viewed at [obtained from] the [Department of] Transportation Cabinet, Department of Highways, Division of Traffic in Frankfort, Kentucky or at any highway district office. [A fee may be charged for each copy to

help defray costs.]

STEPHEN REEDER, Commissioner

APPROVED BY AGENCY: January 15, 1985

FILED WITH LRC: January 15, 1985 at 11 a.m.

PUBLIC HEARING SCHEDULED: A public comment hearing will be held on this proposed amended administrative regulation on February 26, 1985 at 1:30 p.m. local prevailing time in the 4th floor hearing room of the State Office Building located at the corner of High and Clinton Streets in Frankfort, Kentucky. Any person who intends to attend this hearing must notify in writing by February 21, 1985: Larry E. Moore, Office of the Secretary, Transportation Cabinet, 10th Floor, State Office Building, Frankfort, Kentucky 40622.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Larry E. Moore

(1) Type and number of entities affected: Transportation Cabinet and transportation agencies of all cities and counties in Kentucky.

(a) Direct and indirect costs or savings to those affected: None. Changes required only as new signs are placed.

1. First year: None

2. Continuing costs or savings: None

3. Additional factors increasing or decreasing costs (note any effects upon competition): None

(b) Reporting and paperwork requirements: None

(2) Effects on the promulgating administrative body: Changes some signing requirements but effective only upon replacement.

(a) Direct and indirect costs or savings: None

1. First year: None

2. Continuing costs or savings: None

3. Additional factors increasing or decreasing costs: None

(b) Reporting and paperwork requirements: None

(3) Assessment of anticipated effect on state and local revenues: None

(4) Assessment of alternative methods; reasons why alternatives were rejected: Federal Highway Administration requires that these revisions be adopted for all roads receiving federal funds.

(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: None

(a) Necessity of proposed regulation if in conflict: N/A

(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions: N/A

(6) Any additional information or comments: None

Tiering:

Was tiering applied? No. All highways and roads should be signed uniformly for ease of understanding by the traveling public.

EDUCATION AND HUMANITIES CABINET

Department of Education

Office of Local Services

(Proposed Amendment)

702 KAR 4:050. Building sites; inspection, approval.

RELATES TO: KRS 156.160, 162.010, 162.060

PURSUANT TO: KRS [13.082,] 156.070, 156.160

NECESSITY AND FUNCTION: KRS 156.160 requires the State Board of Education to prescribe regulations relative to sanitary and protective construction of public school buildings; KRS 162.010 requires fee simple title to school property; and KRS 162.060 requires plan and specification approval for school construction by the Superintendent of Public Instruction. This regulation provides [To provide] for the location of school buildings in accordance with the program approved by the Superintendent of Public Instruction.

Section 1. The Superintendent of Public Instruction shall cause an inspection to be made of each proposed school building site or site addition. Site approval must be given by the Superintendent of Public Instruction prior to any purchase or commitment to purchase, except that an option-to-purchase which in no way obligates purchaser, may be executed to assure availability of site during this approval procedure. All school sites shall be in agreement with the educational facilities survey recommendations as approved by the Superintendent of Public Instruction and shall have the approval of the Superintendent of Public Instruction prior to initiation of an application for approval of a construction project.

Section 2. The minimum size of school sites shall be as follows:

(1) Elementary school: Five (5) acres plus an additional acre for each 100 or fraction of 100 students of anticipated enrollment.

(2) Middle school, junior high school, and high school: Ten (10) acres plus an additional acre for each 100 or fraction of 100 students of anticipated enrollment.

(3) Any deviation from subsections (1) and (2) above shall be made only after investigation and approval by the Superintendent of Public Instruction.

Section 3. Prior to contracting for the purchase of a school site, it shall be determined by the local board of education that the following conditions can be met and assurances will be given in writing to the Superintendent of Public Instruction prior to his approval to acquire the site.

(1) A fee simple title shall be obtained in conformance with KRS 162.010. A copy of the deed and attorney's title certificate shall be furnished the Superintendent of Public Instruction for approval of the title to the site.

(2) Assurances that an adequate water supply and sewage disposal can be approved by the Department of Natural Resources and Environmental Protection and the Fire Marshal's office having jurisdiction.

(3) Assurances of adequate access to public

roads or streets to accommodate anticipated school traffic.

(4) A copy of a plat of the site survey showing any easements prepared by a registered land surveyor.

(5) Certification by registered architect, engineer or land surveyor that the site or site addition is above the 100-year flood plain. New building construction, additions or major renovation to existing buildings on land presently owned shall be approved only if it is designed in such a manner that all instructional space and the building systems are at an elevation above the 100-year flood plain. "Major renovation" shall mean alterations within any period of twelve (12) months, requiring the submission of a BG-1 application, and involving any three (3) or more of the building systems, with a combined cost exceeding \$100,000; "building systems" include foundations, exterior walls, roofing, ceilings, structural, mechanical (HVAC), electrical (including lighting), plumbing, sewage, doors and hardware, windows, floor coverings, and fixed equipment.

Section 4. A local board of education shall obtain title insurance, in an amount equal to the current appraised value of the property, from an acceptable title insurance company on property acquired for a school site in compliance with KRS 162.010. A copy of the title insurance shall be forwarded with a copy of the fee simple deed to the Superintendent of Public Instruction within sixty (60) days from the date of the deed.

Section 5. A permanent monument (four (4) by four (4) by eighteen (18) inches deep concrete with a brass pin) shall be set in the boundary line of the site at a point which will provide a starting point for initial and final plot of metes and bounds which will circumscribe the site.

ALICE McDONALD, Superintendent of Public Instruction

APPROVED BY AGENCY: January 3, 1985

FILED WITH LRC: January 15, 1985 at 8 a.m.

PUBLIC HEARING SCHEDULED: A public hearing has been scheduled on February 26, 1985, at 11 a.m., EST, in the State Board Room, First Floor, Capital Plaza Tower, Frankfort, Kentucky, to review the regulations adopted by the State Board of Education at its January meeting. Those persons wishing to attend and testify shall contact in writing: Laurel True, Secretary, State Board of Education, First Floor, Capital Plaza Tower, Frankfort, Kentucky 40601, on or before February 21, 1985. If no requests to testify have been received by that date, the above regulation will be removed from the agenda.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Robert Spillman

(1) Type and number of entities affected: 180 local school districts.

(a) Direct and indirect costs or savings to those affected: N/A

1. First year:

2. Continuing costs or savings:

3. Additional factors increasing or decreasing costs (note any effects upon competition):

(b) Reporting and paperwork requirements: Becomes a part of procedure for site approval.

(2) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings: N/A

1. First year:

2. Continuing costs or savings:

3. Additional factors increasing or decreasing costs:

(b) Reporting and paperwork requirements:

(3) Assessment of anticipated effect on state and local revenues: None

(4) Assessment of alternative methods; reasons why alternatives were rejected:

(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: None to our knowledge.

(a) Necessity of proposed regulation if in conflict:

(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions:

(6) Any additional information or comments: Could save local districts funds in future years.

Tiering:

Was tiering applied? No. Uniformity

EDUCATION AND HUMANITIES CABINET

Department of Education

Office of Local Services

(Proposed Amendment)

702 KAR 7:030. Census.

RELATES TO: KRS 159.170, 159.240, 159.250, 159.260

PURSUANT TO: KRS 156.070, 156.160, 159.170, 159.250, 159.260 [13.082]

NECESSITY AND FUNCTION: KRS 159.170 requires a local district from which a child has withdrawn because of change of residence to advise the district to which the child has moved of such on forms prescribed by the State Board of Education; KRS 159.240 requires each board of education to maintain a permanent and continuing school census; [and] KRS 159.250 describes the nature of the [requires a] school census; and KRS 159.260 requires such a report to be provided annually to the Superintendent of Public Instruction. This regulation is [report to be made to the Superintendent of Public Instruction annually. Regulations are] necessary to assure uniformity in keeping and reporting the school census.

Section 1. The annual school census report shall be completed and a copy filed with the State Department of Education on or before June 1 [May 20] of each year as provided by KRS 159.260. The report shall include all children legally residing in the local school district who will, on July 1 following, be between the age of five (5) [six (6)] and eighteen (18) years.

Section 2. Form RR-4, Notice of Transfer, shall be used for both direct and reverse transfers as provided by KRS 159.170.

Section 3. When a pupil of school census age moves from one (1) school district to another

within the state of Kentucky, the director of pupil personnel of the local school district where the child has resided shall mail a Direct Transfer (RR-4) to the director of pupil personnel of the local school district where the pupil has established a legal residence.

Section 4. When a director of pupil personnel receives a pupil from another local school district in Kentucky of census age without a direct transfer, a reverse transfer shall be mailed to the director of pupil personnel of the local school district where the pupil reports he formerly resided.

Section 5. If a director of pupil personnel fails to answer a request for transfer or pupils by reverse transfer method, then the director of pupil personnel making the request shall report each failure to the Division of Pupil [Personnel] Attendance [and Accounting], State Department of Education and they shall contact the Director of Pupil Personnel who failed to honor the request for transfer.

Section 6. Transfers shall be filed by the month.

ALICE McDONALD, Superintendent of Public Instruction

APPROVED BY AGENCY: January 3, 1985

FILED WITH LRC: January 15, 1985 at 8 a.m.

PUBLIC HEARING SCHEDULED: A public hearing has been scheduled on February 26, 1985, at 11 a.m., EST, in the State Board Room, First Floor, Capital Plaza Tower, Frankfort, Kentucky, to review the regulations adopted by the State Board of Education at its January meeting. Those persons wishing to attend and testify shall contact in writing: Laurel True, Secretary, State Board of Education, First Floor, Capital Plaza Tower, Frankfort, Kentucky 40601, on or before February 21, 1985. If no requests to testify have been received by that date, the above regulation will be removed from the agenda.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Charles E. Calloway

(1) Type and number of entities affected: 180 school districts.

(a) Direct and indirect costs or savings to those affected: N/A

1. First year:

2. Continuing costs or savings:

3. Additional factors increasing or decreasing costs (note any effects upon competition):

(b) Reporting and paperwork requirements: Some additional paperwork will be required of directors of pupil personnel in each local school district.

(2) Effects on the promulgating administrative body: Slight change in data processing.

(a) Direct and indirect costs or savings: N/A

1. First year:

2. Continuing costs or savings:

3. Additional factors increasing or decreasing costs:

(b) Reporting and paperwork requirements: Data on five (5) year olds will have to be added to current data.

(3) Assessment of anticipated effect on state

and local revenues: N/A

(4) Assessment of alternative methods; reasons why alternatives were rejected: N/A

(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: N/A

(a) Necessity of proposed regulation if in conflict:

(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions:

(6) Any additional information or comments: Proposed amendment will update the language in this regulation to bring it in line with KRS 159.250. Proposed change will revise Section 1 to include five (5) year olds in annual school census.

Tiering:

Was tiering applied? No. Not applied in interest of uniformity.

EDUCATION AND HUMANITIES CABINET

Department of Education

Office of Instruction

(Proposed Amendment)

704 KAR 15:090. Incentive loan program; mathematics and science.

RELATES TO: KRS 156.611

PURSUANT TO: KRS [13.082,] 156.070, 156.611

NECESSITY AND FUNCTION: KRS 156.611 sets up an incentive loan program and requires the Superintendent of Public Instruction to promulgate and administer regulations adopted by the State Board of Education which establishes requirements and procedures for awarding incentive loans to persons declaring an intention to serve and who actually render service in the critical teacher shortage fields of mathematics and science. This regulation implements that function.

Section 1. (1) Up to thirty (30) percent of the annual appropriation for KRS 156.611 will be used to assist certified teachers who do not possess certification in one of the fields set forth in KRS 156.611 and who have been admitted to an appropriate teacher education program, either as a part-time student during the regular school term or as a summer school student, complete requirements for certification in the specified critical shortage field. [Applicants shall be enrolled at institutions of higher education which have been approved by the State Board of Education to offer teacher education programs.]

(2) Eligible applicants for such loans must already possess a Kentucky teacher certificate. [The applicant shall be admitted to a teacher education program leading to a teaching major or area of concentration in mathematics, biology, chemistry, earth science, physics, math-physical science, natural sciences, or geology.]

(3) For first time applicants priority for such loans will be given to the rank order established on the basis of the following appropriately weighted criteria:

(a) The higher of either the applicant's grade point average for undergraduate work, or NTE/GRE scores. Weight: fifty (50) out of a maximum of 100.

(b) Consideration to teachers teaching out of field in one of the fields identified in KRS 156.611 on or before December 1, 1984. Weight: fifteen (15) out of a maximum of 100.

(c) Consideration to teachers from minority population groups. Weight: fifteen (15) out of a maximum of 100.

(d) Proximity to completion of certification requirements in one of the identified fields. Weight: ten (10) out of a maximum of 100.

(e) Need for teachers in chosen field as determined by the Department of Education. Weight: ten (10) out of a maximum of 100.

(4) Once all the criteria in subsection (3) of this section have been evaluated and two (2) or more applicants appear equally qualified selection between the applicants will be made on the basis of accompanying letters of recommendation from persons associated professionally with the applicant.

(5) Applications for such loans by eligible teachers will be received and verified each semester by the institution where the teacher intends to enroll. The institutions shall forward the applications and supporting documentation of the eligible applicants to the Department of Education.

(6) Applicants who have successfully completed one or more semesters in the program, maintain a two and five-tenths (2.5) grade point average and make normal progress toward completion of certification requirements shall receive priority over new applicants.

(7) The amount of loan under this section for a part-time student shall not exceed tuition and institutional fees payable by such a recipient in the required courses taken each semester. The amount of summer loan for teachers enrolled full-time in the required courses shall be \$833 per summer semester.

(8) The last date for receipt of applications for loans by the Department of Education under Section 1 of this regulation shall be no later than six (6) weeks before the beginning of the relevant semester.

Section 2. (1) At least seventy (70) percent of the annual appropriation for KRS 156.611 will be used to provide incentive loans to persons enrolled full-time during the regular school term in teacher education programs at institutions in Kentucky with the intention of obtaining certification to teach in one of the critical fields identified in KRS 156.611. [Priorities for awarding the incentive loans shall be given to graduates of Kentucky high schools and Kentucky residents. During the initial year of the program priority will be given to applicants with the highest grade point average--American College Testing score combination and the college or university recommendation as outlined in Section 9 of this regulation. Thereafter, first priority will be given to recipients who have successfully completed one (1) or more years in the program.]

(2) Eligible applicants for loans must have a grade point average of at least two and five-tenths (2.5). For first time applicants, priorities will be given according to rank order established in accordance with subsection (4) of this section. Thereafter, priority will be given to recipients who have successfully completed one (1) or more years in the program. [Eligible students across the state who apply for the loan

will be rank ordered by a statewide selection committee based on the recommendation of the college or university as outlined in Section 9 of this regulation and the grade point average for all college work completed at the time of application combined with the American College Testing score and the criterion outlined in Section 9 of this regulation. The top ranking students would then be granted loans in the amount requested up to the maximum.]

(3) The number of loans awarded to students at each institution will be in proportion to the number of certified teachers produced by the institution in the most recent year for which such information is available.

(4) The College or Department of Education at each eligible institution shall establish a screening committee to verify that a student is eligible for a loan under this section. The committee will certify that eligible loan applicants have a reasonable chance for completing the teacher education program in the selected major. The committee shall rank order all eligible applicants based on the following criteria:

(a) Grade point average or, for persons holding a bachelor's degree the higher of the grade point average for undergraduate work or the NTE/GRE scores. Weight: fifty (50) out of a maximum of 100.

(b) College entrance scores. Weight: twenty (20) out of a maximum of 100.

(c) Consideration to students from minority groups. Weight: twenty (20) out of a maximum of 100.

(d) Need for teachers in chosen field as determined by the Department of Education. Weight: ten (10) out of a maximum of 100.

(5) Once all criteria in subsection (4) of this section have been evaluated and two (2) or more applicants appear equally qualified, priority shall be given to graduates of Kentucky high schools and Kentucky residents, and applicants with letters of recommendation indicating that the applicant possesses aptitudes related to excellence in teaching mathematics/science.

(6) The recipient shall maintain at least a two and five-tenths (2.5) grade point average and make normal progress toward receiving certification in one (1) of the areas listed in KRS 156.611 in order to remain in the loan program.

(7) The screening committee shall forward in rank order, the applications and names of all eligible applicants to the Kentucky Department of Education and to the institutions' financial aid officer no later than the second week of July for academic year loans and no later than the second week of April for summer semester loans.

(8) The maximum amount of loan for recipients under this section shall be \$1,250 per semester or \$2,500 annually.

Section 3. Loans allotted to institutions and not utilized by them, principal and interest paid by recipients, and any money not utilized under Section 1 of this regulation shall be used to grant additional loans under Section 2 of this regulation. Recipients for the loans will be selected from applications forwarded by the institutions using the same eligibility and selection criteria as outlined in Section 2 of

this regulation. [Certified teachers who do not possess one (1) of the majors or areas as set forth in Section 1 of this regulation and who have been admitted to a teacher education program shall also qualify for a summer school loan equal to no more than one-third (1/3) the annual loan amount, not to exceed three (3) summer school terms.]

Section 4. Qualifying service as a certified teacher in one (1) of the critical shortage areas shall be rendered within the Commonwealth of Kentucky in a public, accredited school in grades seven (7) through twelve (12), and verification of services by the local school district superintendent or building principal shall be submitted in writing to the Superintendent of Public Instruction. [The maximum amount of a yearly loan shall not exceed the amount established annually by the State Board of Education based on the average cost of room, board, and tuition at the state four (4) year institutions of higher education. Each summer school loan shall not exceed one-third (1/3) of the maximum yearly loan.]

[(1) A student initially receiving a loan during his/her sophomore year shall be eligible for a maximum of three (3) annual loans.]

[(2) A student initially receiving a loan during his/her junior year shall be eligible for a maximum of two (2) loans.]

[(3) A student initially receiving a loan during his/her senior year shall be eligible for one (1) loan.]

[(4) Applicants must re-apply each year for the loan and shall be given priority consideration over new applicants.]

Section 5. The interest rate on loans made under KRS 156.611 shall be the prime rate effective the first banking day in July each year plus one (1) percent. The interest rate so determined shall apply to all loans made during the following fall, spring and summer semester and shall remain fixed for the duration of the loan. [Service as a certified teacher in one (1) of the critical shortage areas shall be rendered within the Commonwealth in a public accredited middle, junior high, or secondary school and verification of services shall be submitted in writing to the Superintendent of Public Instruction from the local school district superintendent or building principal. A major portion of the teacher's school day shall be spent teaching in the fields of mathematics or science.]

[Section 6. Loans shall be converted based on the formula of:]

[(1) Two (2) semesters of teaching for each year the loan was received;]

[(2) One (1) semester of teaching for each summer school attendance; and]

[(3) Seventy (70) school days during each of six (6) school semesters immediately after obtaining an appropriate major or area of concentration shall be converted to interest-free scholarship.]

[Section 7. The recipient shall maintain at least a 2.5 grade point average within the institution of higher education and make normal progress toward receiving certification in one (1) of the areas listed in Section 1 of this

regulation in order to remain in the loan program.]

[(1) Any participant who fails to complete an appropriate program of studies shall be immediately liable to the Department of Education for the sum of all outstanding loans and interest for the entire period of the loan.]

[(2) Failure to repay the loan and interest or render service shall be cause for revocation of a person's teaching certificate, pursuant to KRS 161.120.]

[(3) The interest rate for all loans shall be established by the Superintendent of Public Instruction annually based on practices followed by Kentucky Higher Education Assistance Authority and shall be published prior to the awarding of the loans.]

Section 6 [8]. Repayment of loans may be deferred by the Superintendent of Public Instruction for appropriate cause when it is in the best interest of the program, and it shall be the recipient's responsibility to request deferrals.

[Section 9. The College or Department of Education at each eligible institution shall establish a screening committee to verify that a student is eligible for the loan. The committee will certify that eligible loan applicants have a reasonable chance for completing the Teacher Education Program for certification prior to verification of eligibility to the student financial aid officer. The institutional screening committee shall incorporate the following criteria:]

[(1) Grade point average and other evidence of scholastic achievement.]

[(2) College entrance scores.]

[(3) Performance tasks that promote critical thinking and reasoning skills.]

[(4) Registration in appropriate academic courses that are in the identified areas of science or mathematics.]

[(5) A priority listing of eligible applicants.]

[(6) Verification on a semester by semester basis that loan recipients are making significant progress toward a degree and/or certification.]

[(7) Evidence that the loan applicant possesses other characteristics which the institution deems to be related to success in teaching science or mathematics.]

[(8) Financial need of applicant.]

[Section 10. The screening committee shall forward the applications and names in rank order of the eligible applicants to the State Department of Education and to the institution's financial aid officer.]

[Section 11. This regulation shall be effective July 15, 1982.]

ALICE McDONALD

Superintendent of Public Instruction

APPROVED BY AGENCY: January 3, 1985

FILED WITH LRC: January 15, 1985 at 8 a.m.

PUBLIC HEARING SCHEDULED: A public hearing has been scheduled on February 26, 1985, at 11 a.m., EST, in the State Board Room, First Floor, Capital Plaza Tower, Frankfort, Kentucky, to review the regulations adopted by the State

Board of Education at its January meeting. Those persons wishing to attend and testify shall contact in writing: Laurel True, Secretary, State Board of Education, First Floor, Capital Plaza Tower, Frankfort, Kentucky 40601, on or before February 21, 1985. If no requests to testify have been received by that date, the above regulation will be removed from the agenda.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Jim Fouche

(1) Type and number of entities affected: Amendment will encourage minority and out-of-field math/science teachers to enter program.

(a) Direct and indirect costs or savings to those affected:

1. First year: No change

2. Continuing costs or savings: No change

3. Additional factors increasing or decreasing costs (note any effects upon competition): None

(b) Reporting and paperwork requirements: No change

(2) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings: No change

1. First year: No change

2. Continuing costs or savings: No change

3. Additional factors increasing or decreasing costs: No change

(b) Reporting and paperwork requirements: No change

(3) Assessment of anticipated effect on state and local revenues: No change

(4) Assessment of alternative methods; reasons why alternatives were rejected: Existing interest rate structure for loans has meant fluctuating and high interest rates.

(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: None

(a) Necessity of proposed regulation if in conflict:

(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions:

(6) Any additional information or comments: Amendments define and streamline administrative procedures and provide for consideration to minority, out-of-field math/science teachers.

Tiering:

Was tiering applied? No. Tiering was not applied because of the need for uniformity.

PUBLIC PROTECTION AND REGULATION CABINET Kentucky Harness Racing Commission (Proposed Amendment)

811 KAR 1:160. Association with undesirables prohibited.

RELATES TO: KRS 230.630(1),(3), 230.640

PURSUANT TO: KRS 13.082, 230.630(3),(4),(7)

NECESSITY AND FUNCTION: To regulate conditions under which harness racing shall be conducted in Kentucky. The function of this regulation is to prohibit the association with undesirable persons, require the reporting of unauthorized conduct and to prohibit unlawful

practices.

Section 1. (1) No owner, driver, trainer, groom, attendant or any other person having charge of or access to any harness race horse shall at any time associate with, consort with, or in any manner communicate with any known gambler, bookmaker, tout, or person of similar pursuits either on or off the track. If the reputation of such gambler, bookmaker, tout or person of similar pursuit is notorious, the owner, driver, trainer, groom, attendant or other persons having charge of, or access to any harness race horse shall be presumed to have knowledge of the fact.

(2) If any person under the jurisdiction or control of the commission shall be approached with any offer or promise of a bribe or with a request or a suggestion for a bribe or for any improper, corrupt or fraudulent act or practice in relation to a race or racing, or that any race shall be conducted otherwise than fairly in accordance with the rules of this commission, it shall be the duty of such person to report immediately such matter to the commission or to one of its appointed representatives.

(3) Any person found to have violated any provision of the preceding subsections of this rule shall be subject to suspension for a period of not less than thirty (30) days to a lifetime suspension.

(4) If any person shall be guilty of or shall conspire with any other person to commit or for the purpose of committing [for the commission of] any corrupt or fraudulent practice in relation to racing in this state, such person or persons shall be suspended and his case referred to the commission. The commission shall make the final disposition of the case or cases.

CARL B. LARSEN, Executive Director

MELVIN WILSON, Secretary

APPROVED BY AGENCY: December 19, 1984

FILED WITH LRC: January 10, 1985 at 11 a.m.

PUBLIC HEARING SCHEDULED: A public hearing has been scheduled on this regulation on February 21, 1985 at 10 a.m. at the office of the Kentucky Harness Racing Commission. Anyone interested in attending this hearing, shall notify in writing Carl B. Larsen, Executive Director, Kentucky Harness Racing Commission, 1051-H Newtown Road, Lexington, Kentucky 40511, at least five (5) days before the hearing.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Carl B. Larsen, Executive Director.

(1) Type and number of entities affected: Horsemen

(a) Direct and indirect costs or savings to those affected: None

1. First year:

2. Continuing costs or savings:

3. Additional factors increasing or decreasing costs (note any effects upon competition):

(b) Reporting and paperwork requirements: None additional

(2) Effects on the promulgating administrative body: None

(a) Direct and indirect costs or savings: None

1. First year:

2. Continuing costs or savings:

3. Additional factors increasing or decreasing costs:

(b) Reporting and paperwork requirements: None additional

(3) Assessment of anticipated effect on state and local revenues: None

(4) Assessment of alternative methods; reasons why alternatives were rejected: Not applicable

(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: None

(a) Necessity of proposed regulation if in conflict: Not applicable

(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions: Not applicable

(6) Any additional information or comments: None

Tiering:

Was tiering applied? No. Regulation affects all horsemen.

CABINET FOR HUMAN RESOURCES
Department for Health Services
(Proposed Amendment)

902 KAR 8:020. Policies and procedures for local health department operations.

RELATES TO: KRS Chapter 212

PURSUANT TO: KRS 194.050, 211.090, 211.170, 211.180, 213.410

NECESSITY AND FUNCTION: KRS 211.170 directs the Cabinet for Human Resources to establish policies governing the activities of local health departments. This regulation adopts various manuals setting policies and standards for health departments.

Section 1. Local Health Policy Manual. The policies set forth in the December 11 [November 15], 1984, edition of the "Local Health Policy Manual" governing the maintenance and operation of local health departments are hereby adopted by reference.

Section 2. Financial Management Manual. The policies set forth in the November 15, 1984, edition of the "Financial Management Manual" governing the operation of the financial management systems used by local health departments are hereby adopted by reference.

Section 3. Patient Services Reporting System Manual. The policies set forth in the May 1, 1984, edition of the "Patient Services Reporting System Manual" governing the collection of patient health/medical services delivered by local health departments are hereby adopted by reference.

Section 4. Medical Records System Policy and Procedure Manual for Local Health Departments in Kentucky. The policies and procedures set forth in the May 1, 1984, edition of the "Medical Records System Policy and Procedure Manual for Local Health Departments in Kentucky" governing the development and maintenance of medical records in local health departments are hereby adopted by reference.

Section 5. Planning Manual for Local Health Departments. The policies set forth in the February, 1984, edition of the "Planning Manual for Local Health Departments" governing the annual program planning process and procedures of local health departments are hereby adopted by reference.

Section 6. Standards Manual for Local Health Departments. The policies set forth in the May 15, 1984, edition of the "Standards Manual for Local Health Departments" governing the programmatic operations of local health departments are hereby adopted by reference.

Section 7. Local Health Department Environmental Data System Operational Procedures for Weekly Environmental Activity Report, Sanitation Programs Information Formulator, and Local Health Annual Data Report. The policies set forth in the September, 1982, edition of the "Local Health Department Environmental Data System Operational Procedures for Weekly Environmental Activity Report, Sanitation Programs Information Formulator, and Local Health Annual Data Report" are hereby adopted by reference.

Section 8. On-Line Environmental Health Management Information System. The policies set forth in the February 14, 1984, edition of the "On-Line Environmental Health Management Information System" manual are hereby adopted by reference.

Section 9. Consumer Product Safety Commission's Hazardous Substances Labeling Guide. The policies set forth in the May 25, 1979, edition of the "Consumer Product Safety Commission's Hazardous Substances Labeling Guide" are hereby adopted by reference.

Section 10. Consumer Product Safety Commission's In-Depth Investigations Manual. The policies set forth in the January 28, 1983, edition of the "Consumer Product Safety Commission's In-Depth Investigations Manual" are hereby adopted by reference.

Section 11. MCH Maternity Manual. The policies set forth in the May 11, 1984, edition of the "MCH Maternity Manual" governing the operation of the prenatal program conducted by local health departments are hereby adopted by reference.

Section 12. Sudden Infant Death Syndrome Program. The policies set forth in the January 1, 1985 [May 11, 1984], edition of the "Sudden Infant Death Syndrome Program" manual governing the operation of the Sudden Infant Death Syndrome Program conducted by local health departments are hereby adopted by reference.

Section 13. Standards for Genetic Disease Testing, Counseling and Education Services Program. The policies set forth in the May 11, 1984, edition of the "Standards for Genetic Disease Testing, Counseling and Education Services Program" manual governing the operation of genetic disease testing and counseling clinics conducted by local health departments are hereby adopted by reference.

Section 14. Standards for Regional Pediatric Clinics. The policies set forth in the May 11, 1984, edition of the "Standards for Regional Pediatric Clinics" manual governing the operation of regional pediatric programs conducted by local health departments are hereby adopted by reference.

Section 15. Standards for Preventive Health Care in Children. The policies set forth in the May 11, 1984, edition of the "Standards for Preventive Health Care in Children" manual governing the operation of well child programs conducted by local health departments are hereby adopted by reference.

Section 16. Location of Manuals Referenced in This Regulation. A copy of each manual referenced in this regulation is on file in the Office of the Commissioner for Health Services, 275 East Main Street, Frankfort, Kentucky, and is open to public inspection.

Section 17. Summary of Amendment. (1) In relation to Section 1 relating to the Local Health Policy Manual strike LHP 300-3 dated 7-1-82 and substitute in lieu thereof LHP 300-3 dated 12-11-84 granting exemption to the stated conflict of interest in contracted health providers serving on local boards of health when other providers are unavailable, and identifying contracted providers as employees of the health department for the purposes of this policy; elimination of redundancy in the wording of the policy. [LHP 500-1 dated 7-1-82 and substitute in lieu thereof LHP 500-1 dated 11-15-84 authorizing local health departments to pay an employee for fifty (50) hours of compensatory leave when the maximum of 200 hours is accumulated.]

(2) In relation to Section 12 of this regulation relating to the Sudden Infant Death Syndrome Program Manual, add pages 21 through 29, dated 1-1-85. This amendment sets guidelines for the rental and use of apnea monitors for some medically needy infants. [In relation to Section 2 relating to the Financial Management Manual, strike page 53 (undated) and substitute a new page 53 dated 11-15-84 which omits the section authorizing the reimbursement of local health department employees for professional association membership dues.]

C. HERNANDEZ, Commissioner

E. AUSTIN, JR., Secretary

APPROVED BY AGENCY: January 10, 1985

FILED WITH LRC: January 15, 1985 at noon

PUBLIC HEARING SCHEDULED: A public hearing on this regulation has been scheduled for February 21, 1985 at 9 a.m. in the Department for Health Services Auditorium, 275 East Main Street, Frankfort, Kentucky. However, this hearing will be cancelled unless interested persons notify the following office in writing by February 16, 1985 of their desire to appear and testify at the hearing: R. Hughes Walker, General Counsel, Cabinet for Human Resources, 275 East Main Street, 4-West, Frankfort, KY. 40621.

REGULATORY IMPACT ANALYSIS

Regulation Number: 902 KAR 8:020 - Section 12 (Sudden Infant Death Syndrome Program Manual, pages 21-29)

Agency Contact Person: Patricia K. Nicol

(1) Type and number of entities affected: Local health departments - 42

(a) Direct and indirect costs or savings to those affected: None

1. First year: None

2. Continuing costs or savings: None

3. Additional factors increasing or decreasing costs (note any effects upon competition): None

(b) Reporting and paperwork requirements: Minimal. One page application form must be completed and mailed to state SIDS Coordinator

(2) Effects on the promulgating administrative body: Provision of additional services

(a) Direct costs:

1. First year: \$35,000

2. Continuing costs: \$70,000

3. Additional factors increasing or decreasing costs: Increase or decrease in rental costs

(b) Reporting and paperwork requirements: Maintenance of the application forms sent in by the local health departments

(3) Assessment of anticipated effect on state and local revenues: None

(4) Assessment of alternative methods; reasons why alternatives were rejected: Most efficient alternative

(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: No apparent conflict

(a) Necessity of proposed regulation if in conflict: N/A

(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions: N/A

(6) Any additional information or comments:

Tiering:

Was tiering applied? No. Tiering not applicable

REGULATORY IMPACT ANALYSIS

Regulation Number: 902 KAR 8:020 - Section 1 (Local Health Policy Manual, LHP 300-3)

Agency Contact Person: Phillip R. Spangler

(1) Type and number of entities affected: Local Health Departments - 40

(a) Direct and indirect costs or savings to those affected: None

1. First year:

2. Continuing costs or savings:

3. Additional factors increasing or decreasing costs (note any effects upon competition):

(b) Reporting and paperwork requirements: None added

(2) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings: None

1. First year:

2. Continuing costs or savings:

3. Additional factors increasing or decreasing costs:

(b) Reporting and paperwork requirements: None added

(3) Assessment of anticipated effect on state and local revenues: None

(4) Assessment of alternative methods; reasons why alternatives were rejected:

(5) Identify any statute, administrative

regulation or government policy which may be in conflict, overlapping, or duplication: None

(a) Necessity of proposed regulation if in conflict:

(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions:

(6) Any additional information or comments: None

Tiering:

Was tiering applied? No. N/A

**CABINET FOR HUMAN RESOURCES
Department for Mental Health
and Mental Retardation Services
(Proposed Amendment)**

902 KAR 12:080. Policies and procedures for mental health/mental retardation facilities.

RELATES TO: KRS Chapter 210

PURSUANT TO: KRS 210.010

NECESSITY AND FUNCTION: KRS 210.010 directs the Secretary of the Cabinet for Human Resources to prescribe regulations for the institutions under the control of the cabinet. The function of this regulation is to adopt policies and procedures for such institutions.

Section 1. Oakwood Policy Manual. The policies set forth in the January 1, 1985 [December 1, 1984], edition of the "Oakwood Policy Manual" consisting of three (3) volumes relating to the operation of Oakwood ICF-MR Facility are hereby adopted by reference.

Section 2. Hazelwood Policy Manual. The policies and procedures set forth in the December 1, 1984, edition of the "Hazelwood Policy Manual" consisting of two (2) volumes relating to the operation of Hazelwood ICF-MR Facility are hereby adopted by reference.

Section 3. Central State Hospital ICF-MR Policy Manual. The policies and procedures set forth in the May 1, 1984, edition of the "Central State Hospital ICF-MR Policy Manual" consisting of two (2) volumes relating to the operation of Central State Hospital ICF-MR Facility are hereby adopted by reference.

Section 4. Eastern State Hospital Policy Manual. The policies and procedures set forth in the December 1, 1984, edition of the "Eastern State Hospital Policy Manual" consisting of twenty-one (21) volumes relating to the operation of Eastern State Hospital Facility are hereby adopted by reference.

Section 5. Central State Hospital Policy Manual. The policies and procedures set forth in the September 1, 1984, edition of the "Central State Hospital Policy Manual" consisting of nineteen (19) volumes relating to the operation of Central State Hospital Facility are hereby adopted by reference.

Section 6. Western State Hospital Policy Manual. The policies and procedures set forth in the January 1, 1985 [December 1, 1984], edition of the "Western State Hospital Policy Manual" consisting of thirty-one (31) volumes relating

to the operation of Western State Hospital Facility are hereby adopted by reference.

Section 7. Glasgow ICF Policy Manual. The policies and procedures set forth in the May 1, 1984, edition of the "Glasgow ICF Policy Manual" consisting of twelve (12) volumes relating to the operation of Glasgow ICF Facility are hereby adopted by reference.

Section 8. Western State Hospital ICF Policy Manual. The policies and procedures set forth in the January 1, 1985 [November 1, 1984], edition of the "Western State Hospital ICF Policy Manual" consisting of nine (9) volumes relating to the operation of Western State Hospital ICF Facility are hereby adopted by reference.

Section 9. Volta Policy Manual. The policies and procedures set forth in the September 1, 1984, edition of the "Volta Policy Manual" consisting of one (1) volume relating to the operation of Volta Facility are hereby adopted by reference.

Section 10. Kentucky Correctional Psychiatric Center Policy Manual. The policies and procedures set forth in the January 1, 1985 [December 1, 1984], edition of the "Kentucky Correctional Psychiatric Center Policy Manual" consisting of thirteen (13) volumes relating to the operation of Kentucky Correctional Psychiatric Center Facility are hereby adopted by reference.

Section 11. Location of Manuals Referenced in This Regulation. A copy of each manual referenced in this regulation is on file in the Office of the Commissioner for Health Services, 275 East Main Street, Frankfort, Kentucky, and is open to public inspection.

Section 12. Summary of Amendment.

Section 1 is revised as follows:

OAKWOOD POLICY MANUAL - A-1 - Volume I

DST-0-1 #3 Revised Departmental
Organizational Chart
Attachment only

DST-0-2 #5C Requires written reports to be
submitted to IDT Staffing
Chairman earlier

OAKWOOD POLICY MANUAL - A-3 - Volume III

DST-2-2 #33C Increases accountability and
security of medications
administered in the cottage

DST-2-5 #2B Adjusts pharmacy hours of
operation

#25B Increases accountability and
security of drug deliveries

#27 New policy - insures control of
cottage and infirmery
medications on weekends and
holidays, extra doses, and PRN's

DST-3-6 #1B Adjusted to reflect coordinative services of all recreation programs

Section 6 is revised as follows:

WESTERN STATE HOSPITAL POLICY MANUAL - F-31 - Section IV

F31 Section IV #17 A new policy on search for dangerous weapons is established

Section 8 is revised as follows:

WESTERN STATE HOSPITAL INTERMEDIATE CARE FACILITY POLICY MANUAL - H-4

H4 Section I P.9 Revised to change name of chief nurse

H4 Section I P.10 Revised to change name of chief nurse

H4 Section I P.11 Revised to change name of chief nurse

H4 #8 P.1 Revised to change ward # to Ward 31 I.

H4 #9 Revised to 11-7 shift to read 11:00 p.m. to 7:00 a.m.

H4 #12 Revised to change ward # to Ward 31 I. and to change 11-7 shift to read 11:00 p.m. to 7:00 a.m.

H4 #29 Revised to delete WPPR performance raises

H4 #43 Revised to add statement if an employee does not work extra after three requests the employee's name will be dropped from the list

H4 Section III 7-3 shift duties - revised to explain current duties

H4 Section III 3-11 shift duties - revised to explain current duties

H4 Section III 11-7 shift duties - revised to explain current duties

H4 #40 Revised because new parking permits were issued

H3 Table of Contents - Revised to include new material

H3 Section IV - Procedure 13 - new bowel training program

H3 Section IV - Procedure 14 - new bladder training program

H8 Section B - Social Service Assessment - revised to include more information

H8 Section B - Patient Admissions - Item 4 - revised to show current information

Section 10 is revised as follows:

KENTUCKY CORRECTIONAL PSYCHIATRIC CENTER POLICY MANUAL - J-1

J1 A44 Revised policy to restrict the back door to the nurses stations as a security precaution

J1 B33 Revised to restrict the number of patients who can use the gym and to allow officers near the gym to respond to a "code 500" call

J11-14 New policy - to define responsibilities of licensed physicians according to licensure standards

[Section 1 is revised as follows:

OAKWOOD POLICY MANUAL - A-1 - Volume I

DST-0-1 #2B Terminology adjusted to refer to clients as "persons with mental retardation".

#3A More clearly identifies support services reporting to the Office of the Facility Director.

DST-0-2 #3A Adds section for search by Unit V Shift Supervisor.
Attachment

#4B More clearly defines training objectives; process reviewed monthly.

#5B Revised staffing format. Omits procedure requiring recommendations to be sent to DSI.

#17C Includes representation for Unit V.

#19B Updates references to current forms and Retention and Disposal Schedule.

DST-0-3 #9A Omits reference to use of contingency management system.

#15C Revises list of authorizations necessary for program approval.

DST-0-5 #4A Deletes requirement to send documentation to Training and Education Branch.

#15B Tightens training requirements for personnel transporting residents.

DST-0-6 #9B More clearly delineates sponsorship approvals. Deletes ID card requirement.

DST-0-7 #8B Adjusts increment specifications and annual and sick leave accrual rates for part time over 100 hours employees.

ADMINISTRATIVE REGISTER - 1170

#15B Revises form numbers and updates procedures according to current timekeeping procedures.

#17C Revises annual leave accrual for part time over 100 employees.

#18C Revises sick leave accrual for part time over 100 hours employees.

OAKWOOD POLICY MANUAL - A-2 - Volume II

DST-0-8A #3A Generalizes resident advocate responsibility to apply for any funds resident may qualify for rather than specifying each form and fund.

#4A More clearly defines role of Placements and Admissions Coordinators.

DST-0-8B #1B Transfers responsibilities for some placement procedures to other staff.

#4B Changes New Neighbors terminology to AIS/MRDD and specifies need for authorization for release of information.

DST-0-8C #3A Deletes authorization for permanent record to accompany resident to another CHR facility.

#6B Adds KRS reference and specifies expiration of authorization for release of information.

#8A Provides stricter controls for removal of permanent records from central record room.

#9B Revises retention time period to agree with current guidelines.

#10A Revised to conform to KRS 422.300-330. Permanent record not transferable to other facilities.

#13B Specifies transfer of pertinent record material rather than complete record to/from other CHR facilities.

#15A Revised listing of statistical data maintained by Resident Records Department.

#16 New policy to standardize procedures for charging for copying Resident Record material.

DST-0-8D #5A Gives social worker or R.N. authority to notify families of infirmity admission.

DST-1-1 #5 Policy deleted. (Identification not required for Administrative Services employees for work on facility.)

DST-1-2 #4B Revised procedure for requesting food in lieu of menu.

DST-1-3 #13C Terminology revised to refer to cottage teacher as Residential Training Specialist.

#16B Includes revised forms.

DST-1-7 #3A Changes laundry bagging procedures.

OAKWOOD POLICY MANUAL - A-3 - Volume III

DST-2-2 #4B Revises procedure for administration of injections.

#9C Increases number of locations for denoting allergies.

#10C Includes date in medication checks.

#14B Includes additional medical information on Kardex.

#26C Revises procedures for receiving lab results.

#32C Includes date in medication check.

#41 New procedure for measuring and recording resident weight and height.

DST-2-5 #1A Specifies approval of medications by State Formulary Committee and Oakwood Pharmacy and Therapeutic Committee.

DST-3-1 #2A Title change from Director of Program Services to Program Director.

#3A Deleted (Reports)

#6B Revised copy room procedures.

DST-3-2 #1C Revises mission of Developmental Training Department.

DST-3-3 #1B Revises mission of Habilitative Training Department.

DST-3-4 #1C Revises mission of Diagnostic and Therapeutic Services Department.

DST-4-1 #1C Reflects new structure of five Units.

#2B Reflects new structure of five Units.

#5B Deleted (Employee Work Performance Appraisal no longer applicable).

DST-4-2 #1B Reflects new five-Unit structure.

#2A Reflects new five-Unit structure.

ADMINISTRATIVE REGISTER - 1171

- #6A Includes transmitters in transfer of items between shifts.
- #7A Requires staff to sign log book at beginning and end of shift.
- #9C Requires social worker to provide current list of approved resident visitors.
- #12B Revised mealtime hours.
- #15B More clearly defines procedures for resident treatment programs.
- #17A Revised to refer to "teacher" as instructor.
- #20B Revises intrafacility resident transfer procedures.]

[Section 2 is revised as follows:

HAZELWOOD POLICY MANUAL - B-1

87-3-3 #7B Subgroup A - page 1: Staff Services Director has been added to the call list. Reason: The Staff Services Director is one of the branch managers, and the Safety Committee is of the opinion that all branch managers should report to the facility during an internal disaster to assist their respective departments in an emergency.

Subgroup A - page 2: The word "Director's" added so as to read "Program Director's Secretary". This was changed to avoid confusion with other program secretaries.

87-3-3 #11C #2 - Page 1: Change made from Independent Home Living to Independent Living Environment. Independent Living Environment is the correct name, and this change will eliminate confusion among employees. The word "ward" was changed to read unit (floor). Reason: To eliminate confusion on the unit areas when making severe weather announcements.

Addendum to 87-3-3, #11C: Under subject - Page 1: Independent Home Living changed to Independent Living Environment to eliminate confusion during severe weather announcements.

87-3-3 #9B #6: The word "patients" was changed to "residents". Reason: Hazelwood is a ICF-MR and in compliance with L & R, when referring to the occupancy, the term used shall be "residents".

3-East Nurses Station Attachment: #4-I: An addition was made - Staff Services Director shall report to scene of fire. Reason: All branch managers shall report to scene of fire.

Nursing Department and Volunteers Attachment: The term "ward" changed to floor. Reason: The term "ward" causes confusion on unit areas when making fire announcements.

Administrative Attachment: The term "ward" changed to floor and "floor personnel" to "direct care personnel". Reason: The term "ward" causes confusion on unit areas when making fire announcements. "Direct care personnel" is the term used for individuals working on units.

Business Office, Colonial Inn, Elks Building, Independent Living Building, Volunteer House Attachment: Independent Living Building changed to Independent Living Environment. Reason: Independent Living Environment is the correct name and this will eliminate confusion during fire announcements.

87-3-3 #12A Bomb Threat, 1st Shift: The Facility Director should be contacted. Reason: The Facility Director is in charge of the facility - he should know first hand the situation and make decisions accordingly.

Notification List, Annex III - Staff Services Director and Program Director were added to the notification list. Reason: The Staff Services Director plays an important role in the bomb response plan.

87-3-3 #14B #2 - Staff Services Director added to notification list. Reason: The Staff Services Director is a branch manager and plays an important role in the evacuation plan.

87-3-3 #15C #1 - Ward personnel change to "direct care personnel". Reason: The term "ward personnel" causes confusion on unit areas. Employees in these areas should be referred to as "direct care personnel".]

[Section 4 is revised as follows:

EASTERN STATE HOSPITAL POLICY MANUAL - D1

D1 Page 14 Medical Emerging (Code Blue) policy is revised to simplify wording and to list new emergency phone #500.

D1 Page 5 Policy is revised to prohibit smoking by anyone on wards at times when patients are restricted from smoking, and from smoking in areas where a "No Smoking" sign is displayed.

D1 Page 64 This policy establishes a staff-support means of coping with the normal feelings of

shock, and loss which naturally occur following any death of a patient.

D2 Section II #3 This revision reflects the State Personnel policy on annual and sick time accumulations for part-time employees.

D2 Section I #5 Revised policy providing for orientation of new employees and outlines duties of the department head for orientation.

D2 Section I #62 A new policy establishing a Quality Assurance program for the Personnel Department.

D11 #11 Admissions - A psychosocial assessment must be completed in 14 days, rather than 10.

D11 #7 Psychosocial assessment is done within 10 days, rather than the seven days stated.]

[Section 6 is revised as follows:

WESTERN STATE HOSPITAL POLICY MANUAL - F-1

F1 #18 A new policy on parking permits.

F3 Cover sheet Updated to show revision.

F3 Section IV #11 Changes list of supplies needed in treatment rooms.

F2 Section III #5 Addition to policy to assure correct medical and legal procedure for rape victim.

F8 #10 Procedure for Ambulation Limitation Restraint added.

#18 Court leave added.

#26 Procedure for medication orders added to physicians orders.

F9 Cover sheet is amended to indicate revision of manual.

Title page is revised to omit "pay for performance" from policy #27.

Patient aide job description is revised to remove responsibility for medication administration and to drop high school graduate qualification.

F19 Physical Therapy - last policy added for infection control procedures.

F19 EKG last policy added for infection control procedures.

F19 EEG last policy added for infection control procedures.

F33 Policy revised to consolidate changes made in annual time, sick days, vacation time, tardiness, and use of time clock.]

[Section 10 is revised as follows:

KENTUCKY CORRECTIONAL PSYCHIATRIC CENTER POLICY MANUAL - J5

J5 Policy revised to change shift assignment of patient orientation to 8-4 shift.]

DENNIS D. BOYD, Commissioner

E. AUSTIN, JR., Secretary

APPROVED BY AGENCY: January 14, 1985

FILED WITH LRC: January 15, 1985 at 12 noon

PUBLIC HEARING SCHEDULED: A public hearing on this regulation has been scheduled on February 21, 1984, at 9 a.m. in the Health Services Auditorium, 275 East Main Street, Frankfort, Kentucky. However, this hearing will be cancelled unless interested persons notify the following office in writing by February 16, 1985, of their desire to appear and testify at the hearing: Hughes Walker, General Counsel, Cabinet for Human Resources, 275 East Main Street, Frankfort, Kentucky 40621.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Verna Fairchild

(1) Type and number of entities affected:

(a) Direct and indirect costs or savings to those affected: None

1. First year:

2. Continuing costs or savings:

3. Additional factors increasing or decreasing costs (note any effects upon competition):

(b) Reporting and paperwork requirements: None

(2) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings: None

1. First year:

2. Continuing costs or savings:

3. Additional factors increasing or decreasing costs:

(b) Reporting and paperwork requirements: None

(3) Assessment of anticipated effect on state and local revenues: None

(4) Assessment of alternative methods; reasons why alternatives were rejected: Present procedure not previously adopted by regulation.

(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication:

(a) Necessity of proposed regulation if in conflict:

(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions:

(6) Any additional information or comments:

Tiering:

Was tiering applied? Yes.

**CABINET FOR HUMAN RESOURCES
Department for Health Services
Certificate of Need and Licensure Board
(Proposed Amendment)**

902 KAR 20:016. Hospitals; operations and services.

RELATES TO: KRS 216B.010 to 216B.130, 216B.990(1)(2)

PURSUANT TO: KRS 216B.040, 216B.105[(3)]

NECESSITY AND FUNCTION: KRS 216B.040 [and 216B.105(3)] mandate that the Kentucky Health Facilities and Health Services Certificate of Need and Licensure Board regulate health facilities and health services. This regulation provides for the minimum licensure requirements for the operation of hospitals and the basic services to be provided by hospitals.

Section 1. Scope of Operations and Services. Hospitals are establishments with organized medical staffs and permanent facilities with inpatient beds which provide medical services, including physician services and continuous nursing services for the diagnosis and treatment of patients who have a variety of medical conditions, both surgical and nonsurgical.

Section 2. Definitions. (1) "Governing authority" means the individual, agency, partnership, or corporation, in which the ultimate responsibility and authority for the conduct of the institution is vested.

(2) "Medical staff" means an organized body of physicians, and dentists when applicable, appointed to the hospital staff by the governing authority. All members of the medical staff shall be licensed to practice medicine or dentistry in Kentucky, with the exception of graduate physicians who are in the first year of hospital training.

(3) "Registered records administrator" means a person who is certified as a Registered Records Administrator by the American Medical Record Association.

(4) "Accredited record technician" means a person who has graduated from a program for medical record technicians accredited by the Council on Medical Education of the American Medical Association and the American Medical Record Association; and who is certified as an Accredited Record Technician by the American Medical Record Association.

(5) "Qualified dietitian" or "nutritionist" means:

(a) A person who has a bachelor of science degree in foods and nutrition, food service management, institutional management or related services and has successfully completed a dietetic internship or coordinated undergraduate program accredited by the American Dietetic Association (ADA) and is a member of the ADA or is registered as a dietitian by ADA; or

(b) A person who has a master's degree in nutrition and is a member of ADA or is eligible for registration by ADA; or

(c) A person who has bachelor of science degree in home economics and three (3) years of work experience with a registered dietitian.

(6) "Certified radiation operator" means a person who has been certified pursuant to KRS 211.870 and 902 KAR 105:010 to 105:070 as an operator of sources of radiation.

(7) "Protective devices" means devices that are designed to protect a person from falling, to include side rails, safety vest or safety belt.

(8) "Restraint" means any pharmaceutical agent or physical or mechanical device used to restrict the movement of a patient or the movement of a portion of a patient's body.

(9) "Psychiatric unit" means a department of a general acute care hospital consisting of eight (8) or more psychiatric beds organized for the purpose of providing psychiatric services.

(10) "Induration" means a firm area in the skin which develops as a reaction to injected tuberculosis proteins when a person has tuberculosis infection. The diameter of the firm area is measured to the nearest millimeter to gauge the degree of reaction. A reaction of ten (10) millimeters or more of induration is considered highly indicative of tuberculosis infection.

(11) "Skin test" means a tuberculin skin test utilizing the intradermal (Mantoux) technique using five (5) tuberculin units of purified protein derivative (PPD). The results of the test must be read forty-eight (48) to seventy-two (72) hours after injection and recorded in terms of millimeters of induration.

(12) "Two-step skin testing" means a series of two (2) tuberculin skin tests administered seven (7) to fourteen (14) days apart.

Section 3. Administration and Operation. (1) Governing authority licensee.

(a) The hospital shall have a recognized governing authority that has overall responsibility for the management and operation of the hospital and for compliance with federal, state, and local laws and regulations pertaining to its operation.

(b) The governing authority shall appoint an administrator whose qualifications, responsibilities, authority, and accountability shall be defined in writing and approved by the governing authority, and shall designate a mechanism for the periodic performance review of the administrator.

(2) Administrator.

(a) The administrator shall act as the chief executive officer and shall be responsible for the management of the hospital, and shall provide liaison between the governing authority and the medical staff.

(b) The administrator shall keep the governing authority fully informed of the conduct of the hospital through periodic reports and by attendance at meetings of the governing authority.

(c) The administrator shall develop an organizational structure including lines of authority, responsibility, and communication, and shall organize the day-to-day functions of the hospital through appropriate departmentalization and delegation of duties.

(d) The administrator shall establish formal means of accountability on the part of subordinates to whom he has assigned duties.

(e) The administrator shall hold interdepartmental and departmental meetings (where appropriate), shall attend or be represented at such meetings on a regular basis, and shall report to such departments as well as to the governing authority the pertinent activities of the hospital.

(3) Administrative records and reports.

(a) Administrative reports shall be established, maintained and utilized as necessary to guide the operation, measure productivity, and reflect the programs of the facility. Such reports shall include: minutes of the governing authority and staff meetings, financial records and reports, personnel records, inspection reports, incident investigation reports, and other pertinent reports made in the regular course of business.

(b) The hospital shall maintain a patient admission and discharge register. Where applicable, a birth register and a surgical register shall also be maintained.

(c) Licensure inspection reports and plans of correction shall be made available to the general public upon request.

(4) Policies. The hospital shall have written policies and procedures governing all aspects of the operation of the facility and the services provided, including:

(a) A written description of the organizational structure of the facility including lines of authority, responsibility and communication, and departmental organization;

(b) Admission policies which assure that patients are admitted to the hospital in accordance with policies of the medical staff;

(c) Constraints imposed on admissions by limitations of services, physical facilities, staff coverage or other factors;

(d) Financial requirements for patients on admission;

(e) Emergency admissions;

(f) Requirements for informed consent by patient, parent, guardian or legal representative for diagnostic and treatment procedures;

(g) There shall be an effective procedure for recording accidents involving a patient, visitor, or staff, and incidents of transfusion reactions, drug reactions, medication errors, etc.; and a statistical analysis shall be reported in writing through the appropriate committee;

(h) Reporting of communicable diseases to the health department in whose jurisdiction the disease occurs pursuant to KRS Chapter 214 and 902 KAR 2:020;

(i) Use of restraints and a mechanism for monitoring and controlling their use;

(j) Internal transfer of patients from one (1) level or type of care to another (if applicable); and

(k) Discharge and termination of services.

(5) Patient identification. The hospital shall have a system for identifying each patient from time of admission to discharge (e.g., an identification bracelet imprinted with name of patient, hospital identification number, date of admission, and name of attending medical staff member).

(6) Discharge planning.

(a) The hospital shall have a discharge planning program to assure the continuity of care for patients being transferred to another health care facility or being discharged to the home.

(b) The professional staff of the facility involved in the patient's care during hospitalization shall participate in discharge planning of the patient whose illness requires a level of care outside the scope of the general

hospital.

(c) The hospital shall coordinate the discharge of the patient with the patient and the person(s) or agency responsible for the post-discharge care of the patient. All pertinent information concerning post-discharge needs shall be provided to the responsible person(s) or agency.

(7) Transfer procedures and agreements.

(a) The hospital shall have written patient transfer procedures and agreements with at least one (1) of each type of other health care facilities which can provide a level of inpatient care not provided by the hospital. Any facility which does not have a transfer agreement in effect but has documented a good faith effort to enter into such an agreement shall be considered to be in compliance with this requirement. The transfer procedures and agreements shall specify the responsibilities each institution assumes in the transfer of patients and shall establish responsibility for notifying the other institution promptly of the impending transfer of a patient and arranging for appropriate and safe transportation.

(b) If the patient is transferred to another health care facility or to the care of a home health agency, a transfer form shall accompany the patient or be sent immediately to the home health agency. The transfer form shall include at least: attending medical staff member's instructions for continuing care, a current summary of the patient's medical record, information as to special supplies or equipment needed for patient care, and pertinent social information on the patient and family. When such transfer occurs, a copy of the patient's signed discharge summary shall be forwarded to another health care facility or home health agency within fifteen (15) days of the patient's discharge.

(c) When a transfer is to another level of care within the same facility, the complete medical record or a current summary thereof shall be transferred with the patient.

(8) Medical staff.

(a) The hospital shall have a medical staff organized under bylaws approved by the governing authority, which is responsible to the governing authority of the hospital for the quality of medical care provided to the patients and for the ethical and professional practice of its members.

(b) The medical staff shall develop and adopt policies or bylaws, subject to the approval of the governing authority, which shall:

1. State the necessary qualifications for medical staff membership. For purposes of this document, medical staff shall mean physicians, and dentists when applicable.

2. Define and describe the responsibilities and duties of each category of medical staff (e.g., active, associate, courtesy, consulting, or honorary), delineate the clinical privileges of staff members, and establish a procedure for granting and withdrawing staff privileges to include credentials review.

3. Provide a mechanism for appeal of decisions regarding staff membership and privileges.

4. Provide a method for the selection of officers of the medical staff.

5. Establish requirements regarding the frequency of, and attendance at, general staff and department/service meeting of the medical

staff.

6. Provide for the appointment of standing and special committees, and include requirements for composition and organization, frequency of and attendance at meetings, and the minutes and reports which shall be part of the permanent records of the hospital. These committees may include: executive committee, credentials committee, medical audit committee, medical records committee, infections control committee, tissue committee, pharmacy and therapeutics committee, utilization review committee, and quality assurance committee.

(9) Personnel.

(a) The hospital shall employ a sufficient number of qualified personnel to provide effective patient care and all other related services and shall have written personnel policies and procedures which shall be available to all hospital personnel.

(b) There shall be a written job description for each position. Job descriptions shall be reviewed and revised as necessary.

(c) There shall be an employee health program for mutual protection of employees and patients including provisions for pre-employment and periodic health examination. The hospital shall comply with the following tuberculosis testing requirements:

1. The skin test status of all staff members shall be documented in the employee's personnel record. A skin test shall be initiated on all new staff members before or during the first week of employment and the results shall be documented in the employee's personnel record within the first month of employment. No skin testing is required at the time of initial employment if the employee documents a prior skin test of ten (10) or more millimeters of induration or if the employee is currently receiving or has completed one (1) year of prophylactic therapy or a course of multiple-drug chemotherapy for tuberculosis. Two (2) step skin testing is required for new employees over age forty-five (45) whose initial test shows less than ten (10) millimeters of induration. All staff who have never had a skin test of ten (10) or more millimeters induration must be skin tested annually within two (2) weeks before or after the anniversary of their last skin test.

2. All staff who are found to have a skin test of ten (10) or more millimeters induration, on initial employment testing or annual testing, must receive a chest x-ray unless a chest x-ray within the previous two (2) months showed no evidence of tuberculosis or, the individual can document the previous completion of a course of prophylactic treatment with isoniazid.

3. The hospital administrator shall be responsible for ensuring that all skin tests and chest x-rays are done in accordance with subparagraphs 1 and 2 of this paragraph. All skin testing dates and results and all chest x-ray reports shall be recorded as a permanent part of the personnel record.

4. The following shall be reported by the hospital administrator to the local health department having jurisdiction immediately upon becoming known: names of staff who convert from a skin test of less than ten (10) to a skin test of ten (10) millimeters or more induration at the time of employment; and all chest x-rays suspicious for tuberculosis.

5. Prophylaxis of skin test converters. Any staff whose skin test status converts from less than ten (10) to ten (10) or more millimeters of induration should be given preventive therapy with isoniazid for one (1) year unless medically contraindicated as determined by a licensed physician. When isoniazid prophylaxis is not taken by such a converter, a chest x-ray shall be taken and evaluated for tuberculosis disease every six (6) months during the two (2) years following conversion, for a total of five (5) chest x-rays. [All employees shall have a chest x-ray or tuberculin skin test prior to employment and annually thereafter.]

(d) Current personnel records shall be maintained for each employee which include the following:

1. Name, address, social security number;
2. Health records;
3. Evidence of current registration, certification, or licensure of personnel;
4. Records of training and experience;
5. Records of performance evaluation.

(10) Physical and sanitary environment.

(a) The condition of the physical plant and the overall hospital environment shall be maintained in such a manner that the safety and well-being of patients, personnel and visitors are assured.

(b) A person shall be designated responsible for services and for the establishment of practices and procedures in each of the following areas: plant maintenance, laundry operations (if applicable), and housekeeping.

(c) There shall be an infection control committee charged with the responsibility of investigating, controlling and preventing infections in the hospital. Infection incident reports shall be filed.

(d) There shall be current written infection control measures, including:

1. Policies concerning the admission and isolation of patients with specific or suspected infectious diseases, protective isolation of appropriate patients and protective routine for personnel and visitors;

2. Written procedures for the bacteriological testing of all areas of possible infection. Results of all testing shall be recorded and reported to the infection control committee;

3. The method of control used in relation to the sterilization of supplies and water; and

4. Policies for the protection of patients from employees who have a communicable disease.

(e) The hospital shall provide inservice education programs on the cause, effect, transmission, prevention and elimination of infections.

(f) The hospital buildings, equipment, and surroundings shall be kept in a condition of good repair, neat, clean, free from all accumulations of dirt and rubbish, and free from foul, stale or musty odors.

1. An adequate number of housekeeping and maintenance personnel shall be provided.

2. Written housekeeping procedures shall be established for the cleaning of all areas and copies shall be made available to personnel.

3. Equipment and supplies shall be provided for cleaning of all surfaces. Such equipment shall be maintained in a safe, sanitary condition.

4. Hazardous cleaning solutions, compounds, and substances shall be labeled, stored in

closed metal containers and kept separate from other cleaning materials.

5. The facility shall be kept free from insects and rodents with harborages and entrances for these eliminated.

6. Garbage and trash shall be stored in areas separate from those used for preparation and storage of food and shall be removed from the premises regularly. Containers shall be cleaned regularly.

(g) Sharp wastes, such as broken glass, scalpel blades, and hypodermic needles, shall be segregated from other wastes and aggregated in rigid containers immediately after use. After use, all needles shall also be rendered unusable. The rigid containers of sharp wastes shall either be incinerated, on site or off site, or disposed of in a sanitary landfill approved pursuant to 401 KAR 47:020.

(h) The hospital shall establish a written policy for the handling and disposal of all infectious and pathological waste. Any incinerator used for the disposal of waste shall be in compliance with 401 KAR 59:020 and 401 KAR 61:010.

1. All unpreserved tissue specimens from surgical or necropsy procedures shall be incinerated, on site or off site.

2. The following waste shall be sterilized before disposal or be disposed of by incineration if they are combustible:

- a. Dressings and materials from open or contaminated wounds;
- b. Waste materials and disposable linens from isolation rooms;
- c. Culture plates;
- d. Test tubes;
- e. Sputum cups; and
- f. Contaminated sponges and swabs.

(i) The hospital shall have available at all times a quantity of linen essential to the proper care and comfort of patients.

1. Linens shall be handled, stored, and processed so as to control the spread of infection.

2. Clean linen and clothing shall be stored in clean, dry, dust-free areas designated exclusively for this purpose.

3. Soiled linen and clothing shall be placed in suitable bags or closed containers and stored in separate areas ventilated to the exterior of the buildings; this air shall not be allowed to recirculate into the facility.

(11) Medical records.

(a) The hospital shall have a medical records service with administrative responsibility for medical records. A medical record shall be maintained, in accordance with accepted professional principles, for every patient admitted to the hospital or receiving outpatient services.

1. The medical records service shall be directed by a registered records administrator, either on a full-time, part-time, or consultative basis, or by an accredited record technician on a full-time or part-time basis, and shall have available a sufficient number of regularly assigned employees so that medical record services may be provided as needed.

2. All medical records shall be retained for a minimum of five (5) years from date of discharge, or in the case of a minor three (3) years after the patient reaches the age of majority under state law, whichever is the

longer.

3. Provision shall be made for written designation of specific location(s) for storage of medical records in the event the hospital ceases to operate because of disaster, or for any other reason. It shall be the responsibility of the hospital to safeguard both the record and its informational content against loss, defacement, and tampering. Particular attention shall be given to protection from damage by fire or water.

(b) A system of identification and filing to insure the prompt location of a patient's medical record shall be maintained:

1. Index cards shall bear at least the full name of the patient, the birth date, and the medical record number.

2. There shall be a system for coordinating the inpatient and outpatient medical records of any patient whose admission is a result of or related to outpatient services.

3. All clinical information pertaining to inpatient or outpatient services shall be centralized in the patient's medical record.

4. In hospitals using automated data processing, indexes may be kept on punch cards or reproduced on sheets kept in books.

(c) Records of patients are the property of the hospital and shall not be taken from the facility except by court order. This does not preclude the routing of the patient's records, or portion thereof, including x-ray film, to physicians or dentists for consultation.

1. Only authorized personnel shall be permitted access to the patient's records.

2. Patient information shall be released only on authorization of the patient, the patient's guardian or the executor of his estate.

(d) Medical record contents shall be pertinent and current and shall include the following:

1. Identification data and signed consent forms, including name and address of next of kin, and of person or agency responsible for patient;

2. Date of admission and name of attending medical staff member;

3. Chief complaint;

4. Medical history including present illness, past history, family history and physical examination;

5. Report of special examinations or procedures, such as consultations, clinical laboratory tests, x-ray interpretations, EKG interpretations, etc.;

6. Provisional diagnosis or reason for admission;

7. Orders for diet, diagnostic tests, therapeutic procedures, and medications, including patient limitations, signed and dated by the medical staff member; and, if given verbally, undersigned by the medical staff member upon his next visit to hospital;

8. Medical, surgical and dental treatment notes and reports, signed and dated by a physician, or dentist when applicable, including records of all medication administered to the patient;

9. Complete surgical record signed by attending surgeon, or oral surgeon, to include anesthesia record signed by anesthesiologist or anesthetist, preoperative physical examination and diagnosis, description of operative procedures and findings, postoperative diagnosis, and tissue diagnosis by qualified

pathologist on tissue surgically removed;

10. Physician's, or dentist's when applicable, progress notes and nurses' observations;

11. Record of temperature, pulse and respiration;

12. Final diagnosis using terminology in the current version of the International Classification of Diseases or the American Psychiatric Association's Diagnostic and Statistical Manual, as is applicable;

13. Discharge summary, including condition of patient on discharge, and date of discharge; and

14. In case of death, autopsy findings, if performed.

(e) Records shall be indexed according to disease, operation, and attending medical staff member. For indexing, any recognized system may be used.

1. The disease and operative indices shall be developed using a recognized nomenclature, and shall include each specific disease created and each operative procedure performed, and shall include all essential data on each patient having that particular condition;

2. The attending medical staff index shall include all patients attended or seen in consultation by each medical staff member;

3. Indexing shall be current, within six (6) months following discharge of the patient.

Section 4. Provision of Services. (1) Medical staff services.

(a) Medical care provided in the hospital shall be under the direction of a medical staff member in accordance with staff privileges granted by the governing authority.

(b) The attending medical staff member shall assume full responsibility for diagnosis and care of his/her patient. A physician, or other member of the medical staff if so designated in the hospital bylaws, shall conduct and record a complete history and physical examination for the patient within twenty-four (24) hours after admission to the hospital.

(c) The attending medical staff member shall state his final diagnosis, complete the discharge summary and sign the records within fifteen (15) days following the patient's discharge.

(d) Physician services shall be available twenty-four (24) hours a day on at least an on-call basis.

(e) There shall be sufficient medical staff coverage for all clinical services of the hospital in keeping with their size and scope of activity.

(2) Nursing service.

(a) The hospital shall have a nursing department organized to meet the nursing care needs of the patients and maintain established standards of nursing practice. A registered nurse, preferably one who has a bachelor of science degree in nursing, shall serve as director of the nursing department.

(b) There shall be a registered nurse on duty at all times.

1. There shall be registered nurse supervision and staff nursing personnel for each service or nursing unit to insure the immediate availability of a registered nurse for all patients on a twenty-four (24) hour basis.

2. There shall be other nursing personnel in sufficient numbers to provide nursing care not requiring the service of a registered nurse.

3. There shall be additional registered nurses for surgical, obstetrical, emergency, and other services of the hospital in keeping with their size and scope of activity.

4. All persons not employed by the hospital who render special duty nursing services in the hospital shall be under the supervision of the nursing supervisor of the department or service concerned.

(c) The hospital shall have written nursing care procedures and written nursing care plans for patients. Patient care shall be carried out in accordance with attending medical staff member's orders, nursing care plans, and nursing care procedures.

1. Nursing care plans shall be developed for each patient and shall be kept current daily. Plans shall indicate long and short-term goals, nursing care needed, and methods, approaches and modifications necessary to insure best results for the patient.

2. A registered nurse shall assign staff and evaluate the nursing care of each patient in accordance with the patient's need and the nursing staff available.

3. Nursing notes shall be written and signed on each shift by persons rendering care to patients. The notes shall be descriptive of the nursing care given and shall include information and observations of significance which contribute to the continuity of patient care.

4. Medications shall be administered by a registered nurse, a physician, or dentist except in the case of a licensed practical nurse under the supervision of a registered nurse.

5. No medication or treatment shall be given without a written order signed by a physician or dentist, when applicable. Telephone orders for medications shall be given only to registered nurses or a pharmacist and signed by the medical staff member within twenty-four (24) hours from the time the order is given.

6. No form of patient restraint or protective device other than bed rails shall be used, except in an emergency until the attending medical staff member can be contacted, or upon written or telephone orders of the attending medical staff member. When such restraint is necessary, the least restrictive form of protective device shall be used which affords the patient the greatest possible degree of mobility and protection. In no case shall a locking restraint be used.

7. Meetings of the nursing staff and other nursing personnel shall be held at least monthly to discuss patient care, nursing service problems, and administrative policies. Written minutes of all meetings shall be kept.

(3) Dietary services.

(a) The hospital shall have a dietary department, organized, directed and staffed to provide quality food service and optimal nutritional care.

1. The dietary department shall be directed on a full-time basis by an individual who by education or specialized training and experience is knowledgeable in food service management.

2. The dietary service shall have at least one (1) qualified dietitian or nutritionist, either full-time, part-time, or on a consultative basis, to supervise the nutritional aspects of patient care.

3. Sufficient additional personnel shall be employed to perform assigned duties to meet the

dietary needs of all patients.

4. The dietary department shall have available for all dietary personnel current written policies and procedures for food storage, handling, and preparation.

5. An in-service training program, which shall include the proper handling of food, safety and personal grooming, shall be given at least quarterly for new dietary employees.

(b) Menus shall be planned, written and rotated to avoid repetition. Nutritional needs shall be met in accordance with recommended dietary allowances of the Food and Nutrition Board of the National Research Council of the National Academy of Sciences and in accordance with the medical staff member's orders.

(c) Meals shall correspond with the posted menu. When changes in menu are necessary, substitution shall provide equal nutritive value and the changes shall be recorded on the menu. Menus shall be kept on file for thirty (30) days.

(d) All diets, regular and therapeutic, shall be prescribed in writing, dated, and signed by the attending medical staff member. Information on the diet order shall be specific and complete and shall include the title of the diet, modifications in specific nutrients stating the amount to be allowed in the diet, and specific problems that may affect the diet or eating habits.

(e) Food shall be prepared by methods that conserve nutritive value, flavor, and appearance, and shall be served at the proper temperatures and in a form to meet individual needs (e.g., it shall be cut, chopped, or ground to meet individual patient needs).

(f) If a patient refuses foods served, nutritious substitutions shall be offered.

(g) At least three (3) meals or their equivalent shall be served daily with not more than a fifteen (15) hour span between a substantial evening meal and a breakfast unless otherwise directed by the attending medical staff member. Meals shall be served at regular times with between-meal or bedtime snacks of nourishing quality offered.

(h) There shall be at least a three (3) day supply of food available in the facility at all times to prepare well-balanced palatable meals for all patients.

(i) There shall be an identification system for patient trays, and methods used to assure that each patient receives the appropriate diet as ordered.

(j) The hospital shall comply with all applicable provisions of KRS 219.011 to KRS 219.081 and 902 KAR 45:005 (Kentucky's Food Service Establishment Act and Food Service Code).

4. Laboratory services. The hospital shall have a well-organized, adequately supervised laboratory with the necessary space, facilities and equipment to perform those services commensurate with the hospital's needs for its patients. Anatomical pathology services and blood bank services shall be available either in the hospital or by arrangement with other facilities.

a) Clinical laboratory. Basic clinical laboratory services necessary for routine examinations shall be available regardless of the size, scope and nature of the hospital.

1. Equipment necessary to perform the basic tests shall be provided by the hospital.

2. All equipment shall be in good working

order, routinely checked, and precise in terms of calibration.

3. Provision shall be made to carry out adequate clinical laboratory examinations including chemistry, microbiology, hematology, serology, and clinical microscopy.

a. Some of these services may be provided through arrangements with another licensed hospital which has the appropriate laboratory facilities, or with an independent laboratory licensed pursuant to KRS 333.030 and any regulations promulgated thereunder.

b. When work is performed by an outside laboratory, the original report from this laboratory shall be contained in the patient's medical record.

4. Laboratory facilities and services shall be available at all times.

a. Adequate provision shall be made to assure the availability of emergency laboratory services twenty-four (24) hours a day, seven (7) days a week, including holidays, either in the hospital or under arrangements as specified in paragraph (a)3a of this subsection.

b. Where services are provided by an outside laboratory, the conditions, procedures, and availability of such services shall be in writing and available in the hospital.

5. There shall be a clinical laboratory director and a sufficient number of supervisors, technologists and technicians to perform promptly and proficiently the tests requested of the laboratory. Laboratory services shall be under the direction of a pathologist on a full-time, regular part-time, or a consultative basis. The laboratory shall not perform procedures and tests which are outside the scope of training of the laboratory personnel.

6. Signed reports of all laboratory services provided shall be filed with the patient's medical record and duplicate copies kept in the department.

a. The laboratory report shall be signed by the technologist who performed the test.

b. There shall be a procedure for assuring that all requests for laboratory tests are ordered and signed by a medical staff member.

(b) Anatomical pathology. Anatomical pathology services shall be provided as indicated by the needs of the hospital either in the hospital or under arrangements as specified in paragraph (a)3a of this subsection.

1. Anatomical pathology services shall be under the direct supervision of a pathologist on a full-time, regular part-time or regular consultative basis. If the latter pertains, the hospital shall provide for at least monthly consultative visits by a pathologist.

2. The pathologist shall participate in staff, departmental and clinicopathologic conference.

3. The pathologist shall be responsible for establishing the qualifications of staff and for their inservice training.

4. With exceptions of those exclusions listed in written policies of the medical staff, all tissues removed at surgery shall be macroscopically, and if necessary, microscopically examined by the pathologist.

a. A list of tissues which do not routinely require microscopic examination shall be developed in writing by the pathologist or designated physician with the approval of the medical staff.

b. A tissue file shall be maintained in the

hospital.

c. In the absence of a pathologist, there shall be an established plan for sending to a pathologist outside the hospital all tissues requiring examination.

5. Signed reports of tissue examinations shall be promptly filed with the patient's medical record and duplicate copies kept in the department.

a. All reports of macro and microscopic examinations performed shall be signed by the pathologist.

b. Provision shall be made for the prompt filing of examination results in the patient's medical record and notification of the medical staff member requesting the examination.

c. Duplicate copies of the examination reports shall be filed in the laboratory in a manner which permits ready identification and accessibility.

(c) The laboratory shall meet the minimum proficiency testing and quality control provisions in accordance with Medicare certification requirements.

(d) Blood bank. Facilities for procurement, safekeeping and transfusion of blood and blood products shall be provided or be readily available.

1. The hospital shall maintain, as a minimum, proper blood storage facilities under adequate control and supervision of the pathologist or other authorized physician.

2. For emergency situations the hospital shall maintain at least a minimum blood supply in the hospital at all times, shall be able to obtain blood quickly from community blood banks or institutions, or shall have an up-to-date list of donors and equipment necessary to bleed them.

3. If the hospital utilizes outside blood banks, there shall be a written agreement governing the procurement, transfer and availability of blood.

4. There shall be a provision for prompt blood typing and cross-matching and for laboratory investigation of transfusion reactions, either through the hospital or by arrangements with others on a continuous basis, under the supervision of a physician.

5. Blood storage facilities in the hospital shall have an adequate alarm system, which shall be regularly inspected and tested and is otherwise safe and adequate.

6. Records shall be kept on file indicating the receipt and disposition of all blood provided to patients in the hospital.

7. A committee of the medical staff or its equivalent shall review all transfusions of blood or blood derivatives and shall make recommendations concerning policies governing such practices.

8. Samples of each unit of blood used at the hospital shall be retained, according to the instructions of the committee indicated in subparagraph 7 of this paragraph, for further testing in the event of reactions. Blood not so retained which has exceeded its expiration date shall be disposed of promptly.

9. The review committee shall investigate all transfusion reactions occurring in the hospital and shall make recommendations to the medical staff regarding improvements in transfusion procedures.

(5) Pharmaceutical services.

(a) The hospital shall have adequate

provisions for the handling, storing, recording, and distributing of pharmaceuticals in accordance with state and federal laws and regulations.

1. A hospital which maintains a pharmacy for the compounding and dispensing of drugs shall provide pharmaceutical services under the supervision of a registered pharmacist on a full-time or part-time basis, according to the size and demands of the hospital.

a. The pharmacist shall be responsible for supervising and coordinating all the activities of the pharmacy department.

b. Additional personnel competent in their respective duties shall be provided in keeping with the size and activity of the department.

2. Hospitals not maintaining a pharmacy shall have a drug room utilized only for the storage and distribution of drugs, drug supplies and equipment. Prescription medications shall be dispensed by a registered pharmacist elsewhere. The drug room shall be operated under the supervision of a pharmacist employed at least on a consultative basis.

a. The consulting pharmacist shall assist in drawing up correct procedures, rules for the distribution of drugs, and shall visit the hospital on a regularly scheduled basis in the course of his duties.

b. The drug room shall be kept locked and the key shall be in the possession of a responsible person on the premises designated by the administrator.

(b) Records shall be kept of the transactions of the pharmacy or drug room and correlated with other hospital records where indicated.

1. In accordance with accounting procedures of the hospital, the pharmacy shall establish and maintain a system of records and bookkeeping in accordance with policies of the hospital for maintaining adequate control over the requisitioning and dispensing of all drugs and drug supplies and charging patients for drugs and pharmaceutical supplies.

2. A record of the stock on hand and of the dispensing of all controlled substances shall be maintained in such a manner that the disposition of any particular item may be readily traced.

(c) The medical staff in cooperation with the pharmacist and other disciplines, as necessary, shall develop policies and procedures that govern the safe administration of drugs, including:

1. The administration of medications only upon the order of an individual who has been assigned clinical privileges or who is an authorized member of the house staff;

2. Review of the physician's, or dentist's when applicable, original order, or a direct copy by the pharmacist dispensing the drugs;

3. The establishment and enforcement of automatic stop orders;

4. Proper accounting for and disposition of unused medications or special prescriptions returned to the pharmacy as a result of patient being discharged, or when such medications/prescriptions do not meet sterile and label requirements;

5. Provision for emergency pharmaceutical services; and

6. Provision for reporting adverse medication reactions to the appropriate committee of the medical staff.

(d) Therapeutic ingredients of medications

dispensed shall be included in the United States Pharmacopoeia, National Formulary, United States Homeopath-Pharmacopoeia, New Drugs, or Accepted Dental Remedies (except for any drugs unfavorably evaluated therein), or shall be approved for use by the appropriate committee of the medical staff.

1. A pharmacist shall be responsible for determining specifications and choosing acceptable sources for all drugs, with approval of the appropriate committee of the medical staff.

2. There shall be available a formulary or list of drugs accepted for use in the hospital which shall be developed and amended at regular intervals by the appropriate committee of the medical staff.

(6) Radiology services.

(a) The hospital shall have diagnostic radiology facilities. The radiology service shall have a current license or registration pursuant to KRS 211.842 to 211.852 and any regulations promulgated thereunder.

1. The hospital shall provide at least one (1) fixed diagnostic x-ray unit which is capable of general x-ray procedures.

2. The hospital shall have a radiologist on at least a consulting basis to function as medical director of the department and to interpret films that require specialized knowledge for accurate reading.

3. Personnel adequate to supervise and conduct the services shall be provided, and at least one (1) certified radiation operator shall be on duty or on call at all times.

(b) There shall be written policies and procedures governing radiologic services and administrative routines that support sound radiologic practices.

1. Signed reports shall be filed in the patient's record and duplicate copies kept in the department.

2. Radiologic services shall be performed only upon written order of a physician or dentist, and the order shall contain a concise statement of the reason for the service/examination.

3. Reports of interpretations shall be written or dictated and signed by the radiologist.

4. The use of all x-ray apparatus shall be limited to certified radiation operators, under the direction of medical staff members as necessary. The same limitation shall apply to personnel applying and removing radium element, its disintegration products, and radioactive isotopes.

(c) The radiology department shall be free of hazards for patients and personnel. Proper safety precautions shall be maintained against fire and explosion hazards, electrical hazards and radiation hazards.

(7) Physical restoration/rehabilitation service.

(a) Hospitals in which physical restoration/rehabilitation services are available shall provide individualized techniques required to achieve maximum physical function normal to the patient while preventing unnecessary debilitation and immobilization.

(b) Written policies and procedures shall be developed for each rehabilitation service provided.

(c) A member of the medical staff shall be designated to have responsibility for coordinating the restorative services provided

to the patients in accordance with their needs.

(d) Equipment for physical therapy shall be adequate to meet the needs of the service and shall be in good condition.

(e) Physical therapy services shall be provided only upon written orders of a medical staff member.

(f) Physical therapy services shall be provided by or under the supervision of a licensed physical therapist, on a full-time, part-time or consultative basis.

(g) Complete therapy reports shall be maintained for each patient provided such services. The reports shall be signed by the therapist who prepared it and shall be a part of the patient's medical record.

(8) Emergency services.

(a) Every hospital shall have procedures for taking care of the emergency patient with at least a registered nurse on duty to evaluate the patient and a physician on call.

(b) If the facility has an organized emergency department/service, policies and an emergency care procedures manual governing medical and nursing care provided in the emergency room shall be established by and be a continuing responsibility of the medical staff.

1. The emergency service shall be under the direction of a licensed physician. Medical staff members shall be available at all times for the emergency service, either on duty or on call. Current schedules and telephone numbers shall be posted in the emergency room.

2. Nursing personnel shall be assigned to, or designated to cover, the emergency service at all times.

3. Facilities shall be provided to assure prompt diagnosis and emergency treatment. A specific area of the hospital shall be utilized for patients requiring emergency care on arrival. The emergency area shall be located in close proximity to an exterior entrance of the facility and shall be independent of the operating room suite.

4. Diagnostic and treatment equipment, drugs, and supplies shall be readily available for the provision of emergency services and shall be adequate in terms of the scope of services provided.

5. Adequate medical records shall be kept on every patient seen in the emergency room. These records shall be under the supervision of the Medical Record Service and, where appropriate, shall be integrated with inpatient and outpatient records. Emergency room records shall include at least:

a. A log book listing chronologically the patient visits to the emergency room including patient identification, means of arrival and person(s) transporting patient, and time of arrival;

b. History of present complaint and physical findings;

c. Laboratory and x-ray reports, where applicable;

d. Diagnosis;

e. Treatment ordered and details of treatment provided;

f. Patient disposition;

g. Record of all referrals;

h. Instructions to the patient and/or family for those not admitted to the hospital; and

i. Signatures of attending medical staff member, and nurse when applicable.

(9) Outpatient services.

(a) A hospital which has an organized outpatient department shall have written policies and procedures relating to the staff, functions of service, and outpatient medical records.

(b) The outpatient department shall be organized in sections (clinics), the number of which shall depend on the size and degree of departmentalization of the medical staff, the available facilities, and the needs of the patient it serves.

(c) The outpatient department shall have appropriate cooperative arrangements and communications with community agencies such as home health agencies, the local health department, social and welfare agencies, and other outpatient departments.

(d) Services offered by the outpatient department shall be under the direction of a physician who is a member of the medical staff.

1. A registered nurse shall be responsible for the nursing services of the department.

2. The number and type of other personnel employed shall be determined by the volume and type of services provided and type of patient served in the outpatient department.

(e) Necessary laboratory and other diagnostic tests shall be available either through the hospital or a laboratory in another licensed hospital or a laboratory licensed pursuant to KRS 333.030 and any regulations promulgated thereunder.

(f) Medical records shall be maintained and, where appropriate, coordinated with other hospital medical records.

1. The outpatient medical record shall be filed in a location which insures ready accessibility to the medical staff members, nurses, and other personnel of the outpatient department.

2. Information in the medical record shall be complete and sufficiently detailed relative to the patient's history, physical examination, laboratory and other diagnostic tests, diagnosis, and treatment to facilitate continuity of care.

(10) Surgery services.

(a) Hospitals in which surgery is performed shall have an operating room(s) and a recovery room supervised by a registered nurse qualified by training, experience and ability to direct surgical nursing care.

1. Sufficient surgical equipment including suction facilities and instruments in good repair shall be provided to assure safe and aseptic treatment of all surgical cases.

2. When flammable anesthetics are used, precautions shall be taken to eliminate hazards of explosions, including use of shoes with conductive soles and prohibition of garments or other items of silk, wool, or synthetic fibers which accumulate static electricity.

(b) There shall be effective policies and procedures regarding surgical staff privileges, functions of the service, and evaluation of the surgical patient.

1. Surgical privileges shall be delineated for all members of the medical staff doing surgery in accordance with the competencies of each, and a roster shall be maintained.

2. Except in emergencies, a surgical operation or other hazardous procedures shall be performed only on written consent of the patient or his

legal representative.

3. The operating room register shall be complete and up to date. It shall include the patient's name; hospital room number; preoperative and postoperative diagnosis; complications, if any; names of surgeon, first assistant, anesthesiologist or anesthetist, scrub and circulating nurse; operation performed; and type of anesthesia.

4. There shall be a complete history and physical work-up in the chart of every patient prior to surgery. If such has been transcribed but not yet recorded in the patient's chart, there shall be a statement to that effect and an admission note by the attending medical staff member in the chart. The chart of the patient shall accompany him to the operating suite and shall be returned to the patient's floor or room after the operation.

5. An operative report describing the techniques and findings shall be written or dictated immediately following surgery and signed by the surgeon.

6. All tissues removed by surgery shall be placed in suitable solutions, properly labeled, and submitted to the pathologist for macroscopic and, if necessary, microscopic examinations.

7. All infections of clean surgical cases shall be recorded and reported to the appropriate committee of the medical staff. A procedure shall exist for the investigation of such cases.

(c) Rules and policies related to the operating rooms shall be available and posted.

(11) Anesthesia services.

(a) The hospital which provides surgical or obstetrical services shall have anesthesia services available, and these services shall be organized under written policies and procedures regarding staff privileges, the administration of anesthetics, and the maintenance of safety controls.

(b) A physician member of the medical staff shall be the medical director of anesthesia services. Whenever possible, the director shall be a physician specializing in anesthesiology.

(c) If anesthetics are not administered by an anesthesiologist, the medical staff shall designate a medical staff anesthetist or a registered nurse anesthetist qualified to administer anesthetics under the supervision of the operating surgeon.

(d) Every patient requiring anesthesia services shall have a pre-anesthetic physical examination by a medical staff member with findings recorded within forty-eight (48) hours of surgery, an anesthetic record on a special form, a post-anesthetic follow-up, with findings recorded by the anesthesiologist, medical staff anesthetist, or nurse anesthetist.

(e) The post-anesthetic follow-up note shall be written within three (3) to twenty-four (24) hours after the procedures which required anesthesia. This note shall include a record of blood pressure, pulse, presence or absence of the swallowing reflex and cyanosis, any postoperative abnormalities or complications, and the general condition of the patient.

(12) Obstetrics service.

(a) Hospitals providing obstetrical care of patients shall have adequate space, necessary equipment and supplies, and a sufficient number of nursing personnel to assure safe and aseptic treatment of mothers and newborns and provide

protection from infection and cross-infection.

1. The obstetrics service shall be under the medical direction of a physician and under the supervision of a registered nurse qualified by training, experience, and ability to direct effective obstetrical and newborn nursing care. In hospitals where the obstetrical caseload does not justify a separate nursing staff, obstetrical nurses shall be designated and shall be oriented to the specific needs of obstetrical patients.

2. A registered nurse shall be on duty in the labor and delivery unit whenever any patient is in the unit. Each obstetrics patient shall be kept under close observation by professional personnel during the period of recovery after delivery, whether in the delivery room or in a recovery area, until she is transferred to the maternity unit.

3. An on-call schedule or other suitable arrangement shall be provided to ensure that a physician who is experienced in obstetrics is readily available for consultation and obstetrical emergencies.

4. Provisions shall be made for the care of patients in labor with adequately equipped labor rooms.

(b) An adequate supply of prophylaxis for the prevention of infant blindness shall be kept on hand and administered before the infant is removed from the delivery room.

(c) The hospital shall comply with the provisions of KRS 214.155 and 902 KAR 4:030 in administering tests for inborn errors of metabolism to infants.

(d) There shall be an acceptable method and procedure for the positive associative identification of the mother and infant. This shall be done in the delivery room at the time of birth and shall remain in place during the entire period of hospitalization.

(e) An up-to-date register book of all deliveries shall be maintained containing the following information:

1. Infant's full name, sex, date, time of birth and weight;

2. Mother's full name, including maiden name, address, birthplace and age at time of this birth;

3. Father's full name, birthplace, age at time of this birth; and

4. Full name of attending physician or nurse midwife.

(f) Each hospital providing maternity service shall provide a nursery which shall not be used for any other purpose. Specific routines for daily care of infants and their environment shall be prepared in writing and posted in the nursery workroom.

(g) A policy shall be established for deliveries occurring outside the delivery room and for patients who are infectious.

(h) Written policies and procedures shall be developed to cover alternative use of obstetrical beds.

(13) Pediatric services.

(a) Hospitals providing pediatric care shall have proper facilities for the care of children apart from the newborn and maternity nursing services. If there is not a separate area permanently designated as the pediatric unit, there shall be an area within an adult care unit for pediatric patient care. There shall be available beds and other equipment which are

appropriate in size for pediatric patients.

(b) There shall be proper facilities and procedures for the isolation of children with infectious, contagious or communicable conditions. At least one (1) patient room shall be available for isolation use.

(c) A physician with pediatric experience shall be on call at all times for the care of pediatric patients.

(d) Pediatric nursing care shall be under the supervision of a registered nurse qualified by training, experience and ability to direct effective pediatric nursing. All nursing personnel assigned to pediatric service shall be oriented to the special care of children.

(e) Policies shall be established to cover conditions under which parents may stay with small children or "room-in" with their hospitalized child for moral support and assistance with care.

(14) Psychiatric services. Hospitals which have a psychiatric unit shall designate the location and number of beds to be licensed as psychiatric beds and meet the requirements of psychiatric hospitals operations and services, licensure regulation.

(15) Chemical dependency treatment services. Hospitals providing chemical dependency treatment services shall meet the requirements of 902 KAR 20:160, Chemical dependency treatment services and facility specifications, Section 3, Administrative and Operation and Section 4, Provision of Services, and designate location and the number of beds to be used for this purpose.

(16) Medical library.

(a) The hospital shall maintain appropriate medical library services according to the professional and technical needs of hospital personnel.

(b) The medical library shall be in a location accessible to the professional staff, and its contents shall be organized and available at all times to the medical and nursing staffs.

C. HERNANDEZ, Commissioner

E. AUSTIN, JR., Secretary

APPROVED BY AGENCY: December 14, 1984

FILED WITH LRC: January 4, 1985, at 10 a.m.

PUBLIC HEARING SCHEDULED: A public hearing on this regulation will be held on February 21, 1985, at 9 a.m. in the Department for Health Services Auditorium, 275 East Main Street, Frankfort, Kentucky. However, this hearing will be cancelled unless interested persons notify the following in writing by February 15, 1985: R. Hughes Walker, General Counsel, Cabinet for Human Resources, 275 East Main Street, Frankfort, Kentucky 40621.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Greg Lawther

(1) Type and number of entities affected: All licensed hospitals and their employees.

(a) Direct and indirect costs or savings to those affected: The proposed amendments will result in a net decrease in costs to hospitals and their employees by reducing the number of x-rays that need to be performed.

1. First year:

2. Continuing costs or savings:

3. Additional factors increasing or decreasing costs (note any effects upon competition):

(b) Reporting and paperwork requirements: All positive skin tests and suspicious chest x-rays must be reported to the local health department.

(2) Effects on the promulgating administrative body: None

(a) Direct and indirect costs or savings:

1. First year:

2. Continuing costs or savings:

3. Additional factors increasing or decreasing costs:

(b) Reporting and paperwork requirements:

(3) Assessment of anticipated effect on state and local revenues: None

(4) Assessment of alternative methods; reasons why alternatives were rejected: The only alternative was to leave the existing requirement as it is. The existing requirement results in unnecessary x-rays being performed.

(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: There is some overlap with the TB Control Act of 1970, KRS 215.520 to 215.600. However, there is no conflict.

(a) Necessity of proposed regulation if in conflict: Not in conflict.

(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions:

(6) Any additional information or comments: None

Tiering:

Was tiering applied? No. These are licensure regulations. All hospitals must meet the same standards.

**CABINET FOR HUMAN RESOURCES
Department for Health Services
Certificate of Need and Licensure Board
(Proposed Amendment)**

902 KAR 20:041. Operation and services; family care homes.

RELATES TO: KRS 216B.010 to 216B.130, 216B.990(1),(2)

PURSUANT TO: KRS [13.082,] 216B.040(2), 216B.105[(3)]

NECESSITY AND FUNCTION: KRS 216B.040 and 216B.105[(3)] mandate that the Kentucky Health Facilities and Health Services Certificate of Need and Licensure Board regulate health facilities and health services. This regulation provides for the licensure requirements for the operation of family care homes.

Section 1. Scope of Operations and Services. Family care homes are operated and maintained to provide twenty-four (24) hour supervision and personal care services in residential accommodations for two (2) or three (3) individuals who are not related within the third degree of consanguinity to the licensee, are at least eighteen (18) years of age, and who because of impaired capacity for self care, elect to have or require a protective environment but do not have an illness, injury, or disability for which constant medical care or skilled nursing services are required. Residents must be ambulatory or mobile non-ambulatory and able to manage most of the activities of daily living.

Section 2. Definitions. (1) "Ambulatory" means able to walk without assistance.

(2) "Board" means the Kentucky Health Facilities and Health Services Certificate of Need and Licensure Board.

(3) "Home" means a family care home.

(4) "Impaired capacity for self care" means mental or physical limitation which decreases the ability to function in a normal adult manner and requires supervision, assistance, or the use of prescription medicines to normalize daily living.

(5) "Licensee" means the operator of the family care home.

(6) "Mobile non-ambulatory" means unable to walk without assistance, but able to move from place to place, and self exit the building, with the use of a device such as a walker, crutches, or wheelchair and capable of independent bed-to-chair transfer.

(7) "Protective environment" means an environment in which basic health care needs, personal care needs, nutritional needs and safety are insured for the resident who is not capable of providing these services in an effective manner.

(8) "Resident" means any person who is admitted to a family care home for the purpose of receiving personal care and assistance.

Section 3. Operation and Management. (1) The licensee shall be legally responsible for the operation of the home and for compliance with all federal, state and local [Kentucky] laws and regulations pertaining to the operation of the home.

(2) The licensee shall provide twenty-four (24) hour supervision and assistance to the residents and shall be a mature literate adult, at least eighteen (18) years of age, who has knowledge and understanding of adults who require supervision and personal care services.

(3) The licensee shall be the person directly responsible for the twenty-four (24) hour daily operation of the home or for delegating that responsibility to another similarly qualified individual when a temporary absence is necessary. The name of that individual to whom the responsibility may be designated shall be in writing and provided to the agents of the Board inspecting the home.

(4) No employee of the home contracting an infectious disease shall appear for work until the infectious disease can no longer be transmitted.

(5) The licensee shall attend at least one (1) training program for family care home operators per year when [as] offered or approved by the Department for Human Resources.

(6) The home shall have no more than three (3) persons residing in the home who are not related to the operator within the third degree of consanguinity.

(7) The licensee shall provide opportunities for the residents to become involved in community activities and activities within the home. Residents in cooperation with the licensee and family shall be allowed to use areas of the home, other than their bedroom, such as living rooms, kitchen, dining areas, and recreation areas for entertainment, recreation, and visitation.

(8) The licensee shall maintain a notebook (record), located on the premises and available

for inspection by the Board's agents which contains the following information (typed or in ink) about each resident:

- (a) Resident name and sex.
- (b) Marital status.
- (c) Birthdate and age.
- (d) Religion and person clergyman, if any (with consent of resident).
- (e) Attending physician and dentist, if any; address and phone number for each.
- (f) Next of kin and/or responsible person (or agency), address and telephone number.
- (g) Date of admission and discharge.
- (h) Other relevant information including physician visits and/or assessment reports.
- (i) Amount charged per week or month as compensation for care.

(9) The licensee shall make arrangements with other health agencies and facilities for residents who, at some time, may require a transfer to a different level of care.

(10) The licensee shall have phone numbers of a hospital, an ambulance service, fire department, and a physician for emergencies posted by the telephone in large legible print if phone service is available in the area.

(11) The licensee shall have a written procedure for providing or obtaining emergency services.

(12) The licensee shall make a written [accident] report of any accident involving a resident, any incident involving a resident's health, welfare or safety, and any death of a resident [on a resident who is injured]. The licensee shall keep one (1) copy in the file and make the original available to the Board's agents within seven (7) days of the incident. The original shall be sent to the Department for Human Resources, Office of the Inspector General, Division for Licensing and Regulation, 275 East Main Street, Frankfort, Kentucky 40621.

(13) The licensee shall provide for patient rights pursuant to KRS 216.510 to 216.525.

(14) All residents shall be at least eighteen (18) years of age.

(15) Representatives of the [Bureau for Social Services and the] Division for Licensing and Regulation shall visit the home of the applicant for initial licensure. The Department for Social Services shall visit the home of the applicant upon notification by the Division of Licensing and Regulation and provide the division information relating to its precensure assessment of the applicant. [Certificate of Need to view the home and interview the applicant and at least annually shall visit licensed family care homes to conduct a review and assess the home for relicensure.]

(16) Initial licenses may be denied and existing licenses may be revoked if the applicant for licensure or the licensee has been convicted of a crime that has a bearing upon the applicant's suitability to operate a family care home, unless the applicant shows that:

- (a) The crime occurred more than five (5) years ago; and
- (b) The applicant has been sufficiently rehabilitated.

(17) Initial licenses may be denied and existing licenses may be revoked if the applicant for licensure or the licensee:

- (a) Has failed to assure that nutrition, medication, or treatment of individuals under their care is in accordance with acceptable

professional practice:

(b) Has aided, abetted, sanctioned, condoned or participated in the commission of an illegal act involving individuals under their care; or

(c) Has had a license to operate any facility or service suspended or revoked during the three (3) years immediately preceding an application for licensure.

(18) The licensee shall report all cases of abuse, neglect, or exploitation of adults or children to the Cabinet for Human Resources pursuant to KRS Chapter 209 and 199.335.

Section 4. Services. (1) Basic health and health related services.

(a) All family care homes shall assure that residents obtain basic health and health-related services through the continuous supervision of and monitoring of the resident to assure that the resident's health care needs are being met, supervision of self-administration of medication, storage and control of medications, and making arrangements for obtaining therapeutic services or physician services as necessary.

(b) [(a)] No licensee shall knowingly admit a person suffering from a communicable disease which is reportable to the health department, except a non-infectious tuberculosis patient under continuing medical supervision for his tuberculosis disease.

(c) [(b)] If after admission, a resident is suspected of having a communicable disease that would endanger the health and welfare of other residents, the licensee shall assure that a physician is contacted and that appropriate measures are taken on behalf of that resident and the other residents in the home.

(d) [(c)] The licensee shall show evidence that the resident has obtained a physical examination by a physician within three (3) months prior to or upon admission to the home. If admitted from another health care facility, a discharge summary or transfer form shall be in the resident's record which includes a medical history, record of physical examination and diagnosis.

(e) [(d)] It shall be the responsibility of the licensee to obtain the services of a physician in case of accident or acute illness of any resident.

(f) [(e)] All prescription medications administered to residents shall be noted in writing, with the date, time and dosage, and signed by the person administering the medication.

(g) [(f)] Medication shall not be administered to any resident except on the written order of a physician. When medication requires administration by licensed personnel, arrangement shall be made to procure the services of such personnel.

(h) [(g)] Medications kept in the home shall be kept in a locked cabinet.

(i) [(h)] Self-administration of prescription medications shall be allowed only upon the written instructions of the attending physician.

(j) [(i)] Residents admitted or retained for care shall not require because of illness, injury or disease, a degree of care exceeding the skill of the operator to provide.

(2) Personal care services.

(a) Residents in family care homes shall be assisted to achieve and maintain good personal

hygiene by providing assistance as required by individual needs with:

1. Washing and bathing of the body to maintain clean skin and freedom from offensive odors with the following items provided for each resident and not used by others: soap, clean towels and wash cloths, brushes and combs and other appropriate toilet articles.

2. Shaving.

3. Cleaning of the mouth and teeth to maintain good oral hygiene as well as care of the lips to prevent dryness and cracking. All residents shall be provided with toothbrushes, a dentifrice, and denture containers, when applicable.

4. Washing, grooming and cutting of hair.

(b) The home shall provide each resident with a bureau or cupboard for storage of personal belongings.

(c) The home shall provide each resident with a bed equipped with substantial springs, a clean comfortable mattress, two (2) sheets, a pillow, and such bed covering as required for resident's health and comfort.

(d) Residents shall be provided the privilege of rest periods in their own beds if they so desire.

(3) Dietary services.

(a) Food shall be prepared with consideration for any individual dietary requirements and appetites.

(b) Menus shall be planned in writing and rotated to avoid repetition. A written record shall be kept of all foods served, including food offered as snacks.

(c) Nutritional needs shall be met in accordance with the current recommended dietary allowances of the Food and Nutrition Board of the National Research Council and adjusted for age, sex, and activity in accordance with physician's orders.

(d) Food returned from residents' dishes shall be discarded at the conclusion of the meal and not served again in any form.

(e) Therapeutic diets. Special diets or dietary restrictions shall be medically prescribed.

(f) At least three (3) meals per day shall be served with not more than a fifteen (15) hour span between the evening meal and breakfast. Snacks shall be provided if desired or requested by [available to] patients except when conflicting with special diets prescribed by a licensed physician.

(g) All food shall be stored above the floor in such a manner as to be protected from dust, flies, vermin, or other forms of contamination.

(h) Refrigerators shall have a complete seal, be clean, free of odors, and kept at a temperature below forty-five (45) degrees Fahrenheit. A thermometer shall be placed in each refrigerator and freezer.

(i) All food showing evidence of spoilage or infestation shall be disposed of immediately upon detection.

(4) Housekeeping and sanitation. Each family care home shall:

(a) Maintain a clean, uncluttered and safe facility with screens on doors and windows;

(b) Eliminate odors at their source by prompt and thorough cleaning of commodes, and other obvious sources;

(c) Maintain the premises in such a manner as to prevent infestation by rodents and insects;

(d) Bed linens shall be changed as often as necessary to provide a clean bed at all times. A mattress pad or other protective covering (excluding paper) shall be used on all residents' mattresses; [A rubber sheet or other waterproof material (excluding paper) shall be placed over the mattress;]

(e) Give soiled clothing and linens immediate attention and not allow them to accumulate. Clothing or bedding used by one (1) patient shall not be used by another until it has been laundered or dry cleaned;

(f) Have appropriate toilet facilities which dispose of wastes in a sanitary manner into a public system where available, or if none is available into a system which shall meet the requirements of applicable plumbing codes. Outside toilets shall be allowed only if local county health department approves; and

(g) Collect and dispose of all garbage, refuse, trash, and litter in compliance with applicable state and local laws and regulations. Garbage containers shall be made of metal or other impervious material and shall be water tight and rodent proof and shall have tight-fitting covers.

Section 5. Accommodations. Each family care home shall: (1) Be safe and of substantial construction and comply with applicable state and local laws relating to location, zoning, plumbing, and sanitation.

(2) Be adequately lighted by natural or artificial light including each hall, stairway, entryway, patient area, kitchen, and bathroom.

(3) Have a water supply of a safe, sanitary quality approved by the local health department or other qualified laboratory or agency.

(4) Have an ample supply of hot and cold running water available at all times for general use. The water temperature at any tap used by residents shall not exceed 110 degrees Fahrenheit.

(5) Have appropriate sanitary toilet and bathing facilities conveniently available for resident use with no less than one (1) toilet and lavatory per six (6) persons residing in the home [which includes residents receiving care, the licensee and family].

(6) Have adequate ventilation in all areas used by residents. Toilet rooms shall be vented to the outside, if there is no window. There shall be an exterior window in each resident room which can be opened.

(7) Beds occupied by residents shall be placed so that no resident may experience discomfort due to proximity to radiators, heat outlets or exposure to drafts.

(8) Not use "bunk" beds.

(9) Have beds that are no less than thirty-three (33) inches wide and six (6) feet long.

(10) Not house residents in rooms or detached buildings or other enclosures which have not been previously inspected and approved for resident use, or in basements not constructed for sleeping quarters. Approved basements must have an outside door.

(11) Not be located in a house trailer or motor homes.

(12) Provide a heating system which can maintain an even temperature, and is capable of maintaining a minimum temperature of seventy-two (72) degrees Fahrenheit in resident occupied

areas under winter conditions and a maximum temperature of eighty-five (85) degrees under summer conditions. [seventy-two (72) degrees Fahrenheit in areas used by residents.]

(13) Have telephone service, if available in the area, accessible to the residents.

(14) If the home accepts a resident confined to a wheelchair, appropriate measures must be taken to insure that the resident is able to exit the building without assistance (i.e., ramps, rails, etc.).

(15) Have a three (3) day supply of food on hand at all times.

Section 6. Safety. Each home shall take appropriate precautions to insure the safety of the residents and visitors by:

(1) Having all exterior grounds including sidewalks, steps, porches, ramps, and fences in good repair;

(2) Having all the home's interior including walls, ceilings, floors, floor coverings, steps, windows, window coverings, doors, plumbing, and electrical fixtures in good repair;

(3) Having a fire control and evacuation plan;

(4) Having an adequate number of ABC-rated fire extinguishers located throughout the home with a minimum of one (1) per floor or level of the residence;

(5) Having a person in charge thoroughly oriented in the evacuation of the residents in the event of a fire; and

(6) Having all firearms and ammunition locked in a cabinet, drawer, or closet with the key not accessible to residents. Firearms shall not be loaded.

(7) Having at least two (2) functioning smoke detectors in the home, one of which shall be in the resident bedroom(s) or in a hall adjacent to the resident bedroom(s).

C. HERNANDEZ, M.D., Commissioner

FRANK BURKE, SR., Chairman

E. AUSTIN, JR., Secretary

APPROVED BY AGENCY: January 9, 1985

FILED WITH LRC: January 15, 1985 at 12 noon

PUBLIC HEARING SCHEDULED: A public hearing on this regulation has been scheduled for February 21, 1985, at 9 a.m., in the Department for Health Services Auditorium, 275 East Main Street, Frankfort, Kentucky. Those interested in attending this hearing shall notify in writing the following office by February 16, 1985: Hughes Walker, General Counsel, Office of General Counsel, Cabinet for Human Resources, 275 East Main Street, Frankfort, KY 40621.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Greg Lawther

(1) Type and number of entities affected: All 485 licensed family care homes.

(a) Direct and indirect costs or savings to those affected: The amendments are primarily clarifications of existing requirements. Some operators may incur small costs to obtain additional smoke detectors or fire extinguishers.

1. First year:

2. Continuing costs or savings:

3. Additional factors increasing or decreasing costs (note any effects upon competition):

(b) Reporting and paperwork requirements: The provision for written incident reports has been broadened to include incidents involving a

resident's health, welfare, or safety including the death of a resident. Such reports were required previously only for accidents.

(2) Effects on the promulgating administrative body: The amendments will serve to better protect the health, welfare, and safety of residents of Family Care Homes.

(a) Direct and indirect costs or savings: None

1. First year:

2. Continuing costs or savings:

3. Additional factors increasing or decreasing costs:

(b) Reporting and paperwork requirements: None

(3) Assessment of anticipated effect on state and local revenues: None

(4) Assessment of alternative methods; reasons why alternatives were rejected: The only alternative was to leave the existing requirements as they are.

(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: None

(a) Necessity of proposed regulation if in conflict:

(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions:

(6) Any additional information or comments: None

Tiering:

Was tiering applied? No

If no, please explain why tiering was not applied: These regulations are licensure requirements. All licenses must meet the same standards.

CABINET FOR HUMAN RESOURCES Bureau for Health Services (Proposed Amendment)

902 KAR 20:086. Operation and services; intermediate care facilities for the mentally retarded and developmentally disabled.

RELATES TO: KRS 216B.01 to 216B.130, 216B.990(1)(2), 222.210 et. seq.

PURSUANT TO: KRS [13.082,] 216B.040, 216B.105[(3)]

NECESSITY AND FUNCTION: KRS 216B.040 [and 216B.105(3)] mandates that the Kentucky Health Facilities and Health Services Certificate of Need and Licensure Board regulate health facilities and health services. This regulation provides for the licensure requirements for the operation and services of Intermediate Care Facilities for the Mentally Retarded/Developmentally Disabled (MR/DD).

Section 1. Scope of Operation and Services. Intermediate care facilities for mentally retarded and developmentally disabled persons provide services for all age groups on a twenty-four (24) hour basis, seven (7) days a week, in an establishment with permanent facilities including resident beds for persons whose mental or physical condition requires developmental nursing services along with a planned program of active treatment. The facility provides special programs as indicated by individual care plans to maximize the resident's mental, physical, and social development in accordance with the normalization

principle. The Intermediate Care Facilities for the Mentally Retarded and Developmentally Disabled must comply with the facility specifications for Intermediate Care Facilities, 902 KAR 20:056.

Section 2. Definitions. (1) "Active treatment" means daily participation, in accordance with an individual plan of care and service, in activities, experiences, or therapy which are part of a professionally developed and supervised program of health, social and/or habilitative services offered by or procured by contract or other written agreement by the institution for its residents.

(2) "Administrator" means a person who is licensed as a nursing home administrator pursuant to KRS 216A.080.

(3) "Aversive stimuli" means things or events that the resident finds unpleasant or painful that are used to immediately discourage undesired behavior.

(4) "Board" means the Kentucky Health Facilities and Health Services Certificate of Need and Licensure Board.

(5) "Developmental disability" means a severe chronic disability which is attributable to a mental or physical impairment or combination of mental and physical impairments manifested before the person attains the age of twenty-two (22) and is likely to continue indefinitely. This disability results in substantial limitations in three (3) or more areas of major life activity including self-care, receptive and expressive language, learning, self direction, mobility, capacity for independent living and economic sufficiency and requires individually planned and coordinated services of a lifelong or extended duration.

(6) "Developmental nursing services" means treatment of a person's developmental needs by designing interventions to modify the rate and/or direction of the individual's development especially in the areas of self-help skills, personal hygiene, and sex education while also meeting his physical and medical needs.

(7) "Facility" means an Intermediate Care Facility for the Mentally Retarded and the Developmentally Disabled (MR/DD).

(8) "Induration" means a firm area in the skin which develops as a reaction to injected tuberculosis proteins when a person has tuberculosis infection. The diameter of the firm area is measured to the nearest millimeter to gauge the degree of reaction. A reaction of ten (10) millimeters or more of induration is considered highly indicative of tuberculosis infection.

(9) [(8)] "Interdisciplinary team" means the group of persons responsible for the diagnosis, evaluation and individualized program planning and service implementation for the resident. The team is composed of relevant professionals, and may include the resident, the resident's family, or the guardian.

(10) [(9)] "License" means an authorization issued by the Board for the purpose of offering intermediate care MR/DD services.

(11) [(10)] "MR/DD" means the mentally retarded and the developmentally disabled persons.

(12) [(11)] "Normalization principle" is the utilization of means which are as culturally normative as possible in order to establish and

maintain personal behavior and characteristics which are as culturally normative as possible.

(13) [(12)] "Qualified dietitian or nutritionist" means:

(a) A person who has a bachelor of science degree in foods and nutrition, food service management, institutional management or related services and has successfully completed a dietetic internship or coordinated undergraduate program accredited by the American Dietetic Association (ADA) and is a member of the ADA or is registered as a dietitian by ADA; or

(b) A person who has a masters degree in nutrition and is a member of the ADA or is eligible for registration by ADA; or

(c) A person who has a bachelor of science degree in home economics and three (3) years of work experience with a registered dietitian.

(14) [(13)] "Qualified occupational therapist" means a graduate of a program of occupational therapy approved by the Council on Medical Education of the American Medical Association and licensed in the state, if required.

(15) [(14)] "Qualified speech pathologist or audiologist" means a person who is licensed pursuant to KRS Chapter 334A who has been granted a certificate of clinical competence in the American Speech and Hearing Association or who has completed the equivalent education and experimental requirements for such a certificate.

(16) [(15)] "Qualified social worker" means a person who is licensed or exempt from licensure pursuant to KRS Chapter 335 with bachelor's degree in social work from an accredited program or a bachelor's degree in a field other than social work and at least three (3) years of social work experience under the supervision of a qualified social worker.

(17) [(16)] "A qualified mental retardation professional" means a person who has specialized training or one (1) year of experience in treating or working with the mentally retarded and/or developmental disabilities and is one (1) of the following:

(a) A psychologist with a master's degree from an accredited program;

(b) A licensed physician;

(c) A educator with a degree in education from an accredited program;

(d) A social worker who is licensed or exempt from licensure pursuant to KRS Chapter 335 with a bachelor's degree in:

1. Social work from an accredited program; or
2. A field other than social work and at least three (3) years of social work experience under the supervision of a qualified social workers;

(e) A physical or occupational therapist who is a graduate of a program of physical or occupational therapy approved by the Council on Medical Education of the American Medical Association.

(f) A speech pathologist or audiologist who is licensed pursuant to KRS Chapter 334A who has been granted a certificate of clinical competence in the American Speech and Hearing Association or who has completed the equivalent educational and experimental requirements for such a certificate;

(g) A registered nurse;

(h) A therapeutic recreation specialist who is graduate of an accredited program and is licensed in the state, if required, or who has:

1. A bachelor's degree in recreation, or in a speciality area, such as art, music, or physical

education; or

2. An associate degree in recreation and one (1) year of experience in recreation; or

3. A high school diploma, or an equivalency certificate; and

a. Two (2) years of experience in recreation; or

b. One (1) year of experience in recreation plus completion of comprehensive inservice training in recreation; or

4. Demonstrated proficiency and experience in conducting activities in one (1) or more recreation program areas; or

(i) A "rehabilitation/counselor" who is certified by the Committee on Rehabilitation Counselor Certification.

(18) [(17)] "Restraint" means any chemical agent or any physical or mechanical device used to restrict the movement of an individual or the movement or normal function of a portion of the individual's body, excluding only those devices used to provide support for the achievement of functional body position or proper balance (such as positioning chairs) and devices used for specific medical and surgical (as distinguished from behavioral) treatment.

(19) [(18)] "Seclusion" means the retention of a resident alone in a locked room.

(20) "Skin test" means a tuberculin skin test utilizing the intradermal (Mantoux) technique using five (5) tuberculin units of purified protein derivative (PPD). The results of the test must be read forty-eight (48) to seventy-two (72) hours after injection and recorded in terms of millimeters of induration.

(21) "Two (2) step skin testing" means a series of two (2) tuberculin skin tests administered seven (7) to fourteen (14) days apart.

(22) [(19)] "Time out" means a procedure which involves removing the person from a reinforcing situation, for a period of time when the person engages in a specified inappropriate behavior.

Section 3. Administration and Operation. (1) Licensee. The licensee shall be legally responsible for the facility and for compliance with federal, state and local laws and regulations pertaining to the operation of the facility.

(2) Administrator. All facilities shall have an administrator who is responsible for the operation of the facility and delegating such responsibility in his absence. The administrator shall not be the nursing services supervisor.

(3) Contracted Services. The licensee shall contract for professional and supportive services not available in the facility as dictated by the needs of the residents. The contract shall be in writing.

(4) Administrative records.

(a) The facility shall maintain a bound, permanent, chronological resident registry showing date of admission, name of resident and date of discharge.

(b) The facility shall require and maintain written recommendations or comments from consultants regarding the program and its development on a per visit basis.

(c) Menu and food purchase records shall be maintained.

(d) A written report of any incident or accident involving a resident (including medication errors or drug reactions), visitor or

staff shall be made and signed by the administrator or nursing services supervisor, and any staff member who witnessed the incident. The report shall be filed in an incident file.

(5) Policies. The facility shall establish written policies and procedures that govern all services provided by the facility. The written policies shall include:

(a) Services including medical, nursing, habilitation, pharmaceutical (including medication stop orders policy), and residential services;

(b) Adult and Child Protection. The facility shall have written policies which assure the reporting of cases of abuse, neglect or exploitation of adults and children to the Department for Human Resources pursuant to KRS Chapter 209 and 199.335;

(c) Use of restraints. The facility shall have a written policy that defines the use of restraints and supportive devices and a mechanism for monitoring and controlling their use; and

(d) Missing resident procedures. The facility shall have a written procedure to specify in a step-by-step manner the actions which shall be taken by staff when a resident is determined to be lost, unaccounted for or other unauthorized absence.

(6) Patient rights. Patient rights shall be provided for pursuant to KRS 216.510 to 216.525.

(7) Admission.

(a) Patients shall be admitted only upon the approval of a physician. The facility shall admit only persons who have a physical or mental condition which requires developmental nursing services and a planned program of active treatment.

(b) The interdisciplinary team shall consist of a physician, a psychologist, a registered nurse, a social worker and other professionals, at least one of whom is a qualified mental retardation professional. The interdisciplinary team shall:

1. Conduct a comprehensive evaluation of the individual, not more than three (3) months before admission, covering physical, emotional, social, and cognitive factors; and

2. Prior to admission define the need for service without regard to availability of those services. The team shall review all available and applicable programs of care, treatment, and training and record its findings.

(c) If admission is not the best plan but the individual must be admitted nevertheless, the facility shall clearly acknowledge that the admission is inappropriate and initiate plans to actively explore alternatives;

(d) Before admission, the resident and a responsible member of his family or committee shall be informed in writing of the established policies of the facility and fees, reimbursement, visitation rights during serious illness, visiting hours, type of diets offered and services offered; and

(e) The facility shall provide and maintain a system for identifying each resident's personal property and facilities for safekeeping of his declared valuables. Each resident's clothing and other property shall be reserved for his own use.

(8) Discharge planning. Prior to discharge the facility shall have a postinstitutional plan which identifies the residential setting and support services which would enable the resident

to live in a less restrictive alternative to the current setting. Before a resident is released, the facility shall:

(a) Offer counseling to parents or guardians who requests the release of a resident concerning the advantages and disadvantages of the release;

(b) Plan for release of the resident, to assure that appropriate services are available in the resident's new environment, including protective supervision and other followup services; and

(c) Prepare and place in the resident's record a summary of findings, progress, and plans.

(9) Transfer procedures and agreements.

(a) The facility shall have written transfer procedures and agreements for the transfer of residents to other health care facilities which can provide a level of health care not provided by the facility. Any facility which does not have a transfer agreement in effect but which documents a good faith attempt to enter into an agreement shall be considered to be in compliance with the licensure requirement. The transfer procedures and agreements shall specify the responsibilities each institution assumes in the transfer of resident, and shall establish responsibility for notifying the other institution promptly of the impending transfer of a resident and shall arrange for appropriate and safe transportation.

(b) When the resident's condition exceeds the scope of services of the facility, the resident, upon physician's orders (except in cases of emergency), shall be transferred promptly to a hospital or a skilled nursing facility, or services shall be contracted for from another community resource.

(c) When changes and progress occur which would enable the resident to function in a less structured and restrictive environment, and the less restrictive environment cannot be offered at the facility, the facility shall offer assistance in making arrangements for residents to be transferred to facilities providing appropriate services.

(d) Except in an emergency, the resident, his next of kin, or guardian, if any, and the attending physician shall be consulted in advance of the transfer or discharge of any resident.

(e) When a transfer is to another level of care within the same facility, the complete medical record or a current summary thereof shall be transferred with the resident.

(f) If the resident is transferred to another health care facility or other community resource, a transfer form shall accompany the resident. The transfer form shall include at least: physician's orders (if available), current information relative to diagnosis with a history of problems requiring special care, a summary of the course of prior treatment, special supplies or equipment needed for resident care, and pertinent social information on the resident and family.

(10) Medical Records.

(a) The facility shall maintain a record for each resident for:

1. Planning and continuous evaluation of the resident's habilitation program;

2. Furnishing documentary evidence of each resident's progress and response to his habilitation program; and

3. Protecting the rights of the residents, the facility and the staff.

(b) All entries in the resident's record shall be legible, dated and signed.

(c) At the time a resident is admitted, the facility must enter in the individual's record the following information:

1. Name, date of admission, birth date and place, citizenship status, marital status, and social security number;

2. Father's name and birthplace, mother's maiden name and birthplace, and parents' marital status;

3. Name and address of parents, legal guardian, and next of kin if needed;

4. Sex, race, height, weight, color of hair, color of eyes, identifying marks, and recent photograph;

5. Reason for admission or referral problem;

6. Type and legal status of admission;

7. Legal competency status;

8. Language spoken or understood;

9. Sources of support, including social security, veterans' benefits, and insurance;

10. Religious affiliation, if any;

11. Reports of the preadmission evaluations; and

12. Reports of previous histories and evaluations, if any.

(d) Within one (1) month after the admission of each resident, the ICF/MR must enter the following in the resident's record:

1. A report of the review and updating of the preadmission evaluation;

2. A prognosis that can be used for programming and placement; and

3. A comprehensive evaluation and individual program plan, designed by an interdisciplinary team.

(e) The facility must enter the following information in a resident's record during his residence:

1. Reports of accidents, seizures, illnesses, and treatments for these conditions;

2. Records of immunizations;

3. Records of all time periods that restraints were used, with justification and authorization for each;

4. Reports of regular, at least annual, review and evaluation of the program, developmental progress, and status of each resident;

5. Observations of the resident's response to his program to enable evaluation of its effectiveness;

6. Records of significant behavior incidents;

7. Records of family visits and contacts;

8. Records of attendance and absences;

9. Correspondence pertaining to the resident;

10. Periodic updates of the information recorded at the time of admission; and

11. Appropriate authorizations and consent.

(f) The ICF/MR must enter a discharge summary in the resident's record at the time he is discharged.

(11) Personnel.

(a) Job descriptions: Written job descriptions shall be developed for each category of personnel, to include qualifications, lines of authority and specific duty assignments.

(b) Employee records: Current employee records shall be maintained and shall include a resume of each employee's training and experience, evidence of current licensure or registration where required by law, health records, records

of inservice training and ongoing education, and the employee's name, address and social security number.

(c) Staffing requirements. The facility shall have adequate personnel to meet the needs of the residents on a twenty-four (24) hour basis. The number and classification of personnel required shall be based on the number of residents, the amount and the kind of personal care, nursing care, supervision and program needed to meet the needs of the resident as determined by the interdisciplinary team, and the services required by this regulation.

(d) The licensee shall have a qualified mental retardation professional who is responsible for:

1. Supervising the delivery of each resident's individual plan of care;

2. Supervising the delivery of training and habilitation services;

3. Integrating the various aspects of the facility program;

4. Recording each resident's progress; and

5. Initiating a periodic review of each individual plan of care for necessary changes.

(e) Each resident living unit, regardless of organization or design, must have, as a minimum, overall staff-resident ratios (allowing for a five (5) day work week plus holiday, vacation, and sick time) as follows unless program needs justify otherwise:

1. For units serving children under the age of six (6) years, severely and profoundly retarded, severely physically handicapped, or residents who are aggressive, assaultive, or security risks, or who manifest severely hyperactive or psychotic-like behavior, the overall ratio is one (1) to two (2);

2. For units serving moderately retarded residents requiring habit training, the overall ratio is one (1) to two and five tenths (2.5); and

3. For units serving residents in vocational training programs and adults who work in sheltered employment situations, the overall ratio is one (1) to five (5).

(f) When the staff/resident ratio does not meet the needs of the residents, the Division for Licensing and Regulation shall determine and inform the administrator in writing how many additional personnel are to be added and of what job classification and shall give the basis for this determination.

(g) A responsible staff member shall be on duty and awake at all times to assure prompt, appropriate action in case of injury, illness, or fire or other emergencies.

(h) Volunteers shall not be counted to make up minimum staffing requirements.

(i) Supervision of nursing services shall be by a registered nurse or licensed practical nurse employed on the day shift seven (7) days per week. The supervisor shall have training and experience in the field of developmental disabilities and mental retardation. When a licensed practical nurse serves as the supervisor, consultation shall be provided by a registered nurse preferably with a baccalaureate degree, at regular intervals, not less than four (4) hours weekly. The responsibilities of the nursing services supervisor shall include:

1. Developing and maintaining nursing service objectives, standards of nursing practice, nursing procedure manuals, and written job description for each level of nursing personnel;

and

2. Nursing service personnel at all levels of experience and competence shall be assigned responsibilities in accordance with their qualifications, delegate authority commensurate with their responsibility, and provide appropriate professional nursing supervision.

3. Participate in the development and implementation of resident care policies.

(j) The facility shall retain a licensed pharmacist on a full-time, part-time or consultant basis to direct pharmaceutical services.

(k) Each facility shall have a full-time person designated by the administrator, responsible for the total food service operation of the facility and on duty a minimum of thirty-five (35) hours each week.

(l) Supportive personnel, consultants, assistants and volunteers shall be supervised and shall function within the policies and procedures of the facility.

(m) Health requirements. [All employees shall have a test for tuberculosis either prior to or within the first week of employment and annually thereafter.] No employee contracting an infectious disease shall appear at work until the infectious disease can no longer be transmitted. The facility shall comply with the following tuberculosis testing requirements:

1. The skin test status of all staff members shall be documented in the employee's personnel record. A skin test shall be initiated on all new staff members before or during the first week of employment and the results shall be documented in the employee's personnel record within the first month of employment. No skin testing is required at the time of initial employment if the employee documents a prior skin test of ten (10) or more millimeters of induration or if the employee is currently receiving or has completed one (1) year of prophylactic therapy or a course of multiple-drug chemotherapy for tuberculosis. Two (2) step skin testing is required for new employees over age forty-five (45) whose initial test shows less than ten (10) millimeters of induration. All staff who have never had a skin test of ten (10) or more millimeters induration must be skin tested annually within two (2) weeks before or after the anniversary of their last skin test.

2. All staff who are found to have a skin test of ten (10) or more millimeters induration, on initial employment testing or annual testing, must receive a chest x-ray unless a chest x-ray within the previous two (2) months showed no evidence of tuberculosis or, the individual can document the previous completion of a course of prophylactic treatment with isoniazid.

3. The administrator shall be responsible for ensuring that all skin tests and chest x-rays are done in accordance with sections 1 and 2 of this section. All skin testing dates and results and all chest x-ray reports shall be recorded as a permanent part of the personnel record.

4. The following shall be reported by the administrator to the local health department having jurisdiction immediately upon becoming known: names of staff who convert from a skin test of less than ten (10) to a skin test of ten (10) or more millimeters of induration; names of staff who have a skin test of ten (10) millimeters or more induration at the time of

employment; and all chest x-rays suspicious for tuberculosis.

5. Prophylaxis of skin test converters. Any staff whose skin test status converts from less than ten (10) to ten (10) or more millimeters of induration should be given preventive therapy with isoniazid for one (1) year unless medically contraindicated as determined by a licensed physician. When isoniazid prophylaxis is not taken by such a converter, a chest x-ray shall be taken and evaluated for tuberculosis disease every six (6) months during the two (2) years following conversion, for a total of five (5) chest x-rays.

(n) The facility shall have a staff training program adequate for the size and nature of the facility with a person designated the responsibility for staff development and training. The program shall include:

1. Orientation for each new employee to acquaint him with the philosophy, organization, program, practices, and goals of the facility;
2. Inservice training for any employee who has not achieved the desired level of competence;
3. Continuing inservice training for all employees to update and improve their skills; and
4. Supervisory and management training for each employee who is in, or a candidate for, a supervisory position.

Section 4. Provision of Services. (1) The professional interdisciplinary team shall assure that the health needs of the residents are met and that plans are developed for each resident which include treatments, medications, dietary requirements, and other program services. All activities shall reflect adherence to the normalization principle. The active treatment program shall assure:

(a) An individual written plan of care that sets forth measurable goals or objectives stated in terms of desirable behavior and that prescribes an integrated program of activities, experiences or therapies necessary for the individual to reach those goals or objectives. The plan is to help the individual function at the greatest physical, intellectual, social, or vocational level he can presently or potentially achieve.

(b) Regular participation, in accordance with an individualized plan, in a program of activities that are designed to attain the optimum physical, intellectual, social, and vocational functioning of which a resident is capable.

(c) Reevaluation medically, socially, and psychologically at least annually by the staff involved in carrying out the resident's individual plan of care. This must include review of the individual's progress toward meeting the plan objectives, the appropriateness of the individualized plan of care, assessment of his continuing need for institutional care, and consideration of alternate methods of care.

(2) Communicable Diseases.

(a) No resident shall knowingly be admitted to the facility with a communicable disease which is reportable to the health department, pursuant to KRS 214 and applicable regulations except a (non-infectious) tuberculosis patient under continuing medical supervision for his tuberculosis disease.

(b) If, after admission, a resident is suspected of having a communicable disease that

would endanger the health and welfare of other residents the administrator shall assure that a physician is contacted and that appropriate measures are taken on behalf of the resident with the communicable disease and the other residents.

(3) Use of control and discipline of residents.

(a) The facility must have written policies and procedures for the control and discipline of residents that are available in each living unit and to parents and guardians.

(b) The facility shall not allow:

1. Corporal punishment of a resident;
2. A resident to discipline another resident, unless it is done as part of an organized self-government program conducted in accordance with written policy; or
3. Seclusion of a resident.

(c) On orders of a physician, or in the case of an emergency until a physician is contacted, the facility may allow the use of physical restraint on a resident only if absolutely necessary to protect the resident from injuring himself or others but may not use physical restraint as punishment, for the convenience of the staff, or as a substitute for activities or treatment.

(d) The facility must have a written policy that specifies how and when physical restraint may be used, the staff members who must authorize its use, and the method for monitoring and controlling its use.

(e) An order for physical restraint may not be in effect longer than twelve (12) hours. Appropriately trained staff must check a resident placed in a physical restraint at least every thirty (30) minutes and keep a record of these checks. A resident who is in a physical restraint must be given an opportunity for motion and exercise for a period of not less than ten (10) minutes during each two (2) hours of restraint. Mechanical devices used for physical restraint must be designed and used in a way that causes the resident no physical injury and the least possible physical discomfort. Restraints that require lock and key shall not be used.

(f) Mechanical supports used as protective devices must be designed and applied under the supervision of a qualified professional, and in accordance with principles of good body alignment, concern for circulation, and allowance for change of position.

(g) The facility may not use chemical restraint excessively, as punishment, for the convenience of the staff, as a substitute for activities or treatment, or in quantities that interfere with a resident's habilitation program.

(h) Behavior modification programs involving the use of aversive stimuli or time-out devices shall be:

1. Reviewed and approved by the facility's human rights committee or a qualified mental retardation professional;
2. Conducted only with the consent of the affected resident's parents or legal guardian; and
3. Described in written plans that are kept on file in the ICF/MR.

(i) A physical restraint used as a time-out device may be applied only during behavior modification exercises and only in the presence of the trainer.

(j) Time-out devices and aversive stimuli may

not be used for longer than one (1) hour, and then only during the behavior modification program and only under the supervision of the trainer.

(4) Medical supervision of residents. The facility shall maintain policies and procedures to assure that each resident shall be under the medical supervision of a physician.

(a) The resident (or his guardian) shall be permitted his choice of physician.

(b) The physician shall visit the residents as often as necessary and in no case less often than every sixty (60) days, unless justified and documented by the attending physician.

(c) A complete medical evaluation to include social, physical, emotional, and cognitive factors shall be made of the person desiring or requiring institutionalization prior to, but not to exceed three (3) months before admission.

(d) Medical reevaluation at least annually shall be made by the resident's physician, a physician provided by a community service, or a registered visiting nurse, according to the resources for the community and the apparent needs of the resident receiving intermediate care.

(e) Formal arrangements shall be made to provide for medical emergencies on a twenty-four (24) hour, seven (7) days a week basis. This shall be the responsibility of the facility providing care.

(5) Health services. Health services shall include:

(a) The establishment of a nursing care plan as part of the total habilitation program for each resident. Each plan shall be reviewed and modified as necessary, or at least quarterly. Each plan shall include goals, and nursing care needs;

(b) Nursing care to achieve and maintain the highest degree of function, self-care and independence with those procedures requiring medical approval ordered by the attending physician. Nursing care shall include:

1. Positioning and turning. Nursing personnel shall encourage and assist residents in maintaining good body alignment while standing, sitting, or lying in bed to prevent decubiti.

2. Exercises. Nursing personnel shall assist residents in maintaining maximum range of motion.

3. Bowel and bladder training. Nursing personnel shall make every effort to train incontinent residents to gain bowel and bladder control.

4. Training in habits of personal hygiene, family life, and sex education that includes but is not limited to family planning and venereal disease counseling.

5. Ambulation. Nursing personnel shall assist and encourage residents with daily ambulation unless otherwise ordered by the physician.

6. Administration of medications and appropriate treatment.

7. Written monthly assessment of the resident's general condition with any changes in the resident's condition, actions, responses, attitudes, or appetite recorded in the resident's record by licensed personnel.

(6) Pharmaceutical services:

(a) The facility shall provide appropriate methods and procedures for obtaining, dispensing, and administering drugs and biologicals, developed with the advice of a licensed pharmacist or a pharmaceutical advisory

committee which includes one (1) or more licensed pharmacist.

(b) If the facility has a pharmacy department, a licensed pharmacist shall be employed to administer the pharmacy department.

(c) If the facility does not have a pharmacy department, it shall have provision for promptly obtaining prescribed drugs and biologicals from a community or institutional pharmacy holding a valid pharmacy permit issued by the Kentucky Board of Pharmacy, pursuant to KRS 315.035.

(d) An emergency medication kit approved by the facility's professional personnel shall be kept readily available. The facility shall maintain a record of what drugs are in the kit and document how the drugs are used.

(e) Medication requirement and services.

1. Conformance with physician's orders. All medications administered to residents shall be ordered in writing. Oral orders shall be given only to a licensed nurse or pharmacist, immediately reduced to writing, and signed. Medications not specifically limited as to time or number of doses, when ordered, shall be automatically stopped in accordance with the facility's written policy on stop orders. The pharmacist or nurse shall review the resident's medication profile on a regular basis. The resident's attending physician shall be notified of stop order policies and contacted promptly for renewal of such orders so that continuity of the resident's therapeutic regimen is not interrupted. Medications shall be released to residents on discharge or visits only after being labeled appropriately and on the written authorization of the physician.

2. Administration of medications. All medications shall be administered by licensed nurses or personnel who have completed a state approved training program. Each dose administered shall be recorded in the medical record. Intramuscular injections shall be administered by a licensed nurse or a physician. If intravenous injections are necessary they shall be administered by a licensed physician or a registered nurse.

a. The nursing station shall have items required for the proper administration of medication readily available.

b. Medications prescribed for one resident shall not be administered to any other resident.

c. Self-administration of medications by residents shall not be permitted except for drugs on special order of the resident's physician and a predischARGE program under the supervision of a licensed nurse as a part of the resident's treatment plan.

d. Medication errors and drug reactions shall be immediately reported to the resident's physician and pharmacist and an entry thereof made in the resident's medical record as well as on an incident report.

3. The facility shall provide up-to-date medication reference texts for use by the nursing staff (e.g., Physician's Desk Reference).

4. Labeling and storing medications. All medications shall be plainly labeled with the resident's name, the name of the drug, strength, name of pharmacy, prescription number, date, physician name, caution statements and directions for use except where accepted modified unit dose systems conforming to federal and state laws are used. The medications of each resident shall be kept and stored in their

original containers and transferring between containers shall be prohibited. All medicines kept by the facility shall be kept in a locked place and the persons in charge shall be responsible for giving the medicines and keeping them under lock and key. Medications requiring refrigeration shall be kept in a separate locked box of adequate size in the refrigerator in the medication area. Drugs for external use shall be stored separately from those administered by mouth injection. Provisions shall also be made for the locked separate storage of medications of deceased and discharge resident until such medication is surrendered or destroyed in accordance with federal and state laws and regulations.

5. Controlled substances. Controlled substances shall be kept under double lock, (i.e., in a locked box in a locked cabinet). There shall be a controlled substances record, in which is recorded the name of the resident, the date, time, kind, dosage, balance remaining and method of administration of all controlled substances; the name of the physician who administered it, or staff who supervised the self-administration. In addition, there shall be a recorded and signed schedule II controlled substances count daily, and schedule III, IV and V controlled substances count once per week by those persons who have access to controlled substances. All controlled substances which are left over after the discharge or death of the patient shall be destroyed in accordance with KRS 218A.230, or 21 CFR 1307.21, or sent via registered mail to the Controlled Substances Enforcement Branch of the Kentucky Cabinet for Human Resources.

(7) Personal care services.

(a) Each resident shall be trained to be as independent as possible to achieve and maintain good personal hygiene including:

1. Bathing of the body to maintain clean skin and freedom from offensive odors. In addition to assistance with bathing, the facility shall provide soap, clean towels, and wash cloths for each resident. Toilet articles such as brushes and combs shall not be used in common.

2. Shaving.

3. Cleaning and trimming of fingernails and toenails.

4. Cleaning of the mouth and teeth to maintain good oral hygiene as well as care of the lips to prevent dryness and cracking. All residents shall be provided with tooth brushes, a dentifrice, and denture containers, when applicable.

5. Washing, grooming, and cutting of hair.

(b) Each resident who does not eliminate appropriately and independently must be in a regular, systematic toilet training program and a record must be kept of his progress in the program.

(c) A resident who is incontinent must be bathed or cleaned immediately upon voiding or soiling, unless specifically contraindicated by the training program, and all soiled items must be changed.

(d) The staff shall train and when necessary assist the residents to dress in their own street clothing (unless otherwise indicated by the physician).

(8) Dental services.

(a) Comprehensive dental services shall be provided and if not available within the

facility, arrangements with specialists in the dental field will be made for such service.

1. Appropriate dental services shall be provided through personal contact with all residents by dentists, dental hygienists, and dental assistants under the supervision of the dentists, health educators, and oral hygiene aids.

2. A dental professional shall participate, as appropriate on the interdisciplinary team serving the facility.

3. There shall be sufficient supporting personnel, equipment, and facilities available to the dental professional if dental services delivered within the facility.

(b) Dental records shall be part of each resident's record.

(c) A dentist shall be responsible for insuring that direct care staff are instructed in the proper use of oral hygiene methods for residents.

(9) Social services.

(a) Social services shall be available either on staff or by formal arrangement with community resources for all residents and their families, including evaluation and counseling with referral to, and use of, other planning for community placement, discharge and follow up services rendered by or under the supervision of a social worker.

(b) The social worker of the intermediate care facility, providing services for the mentally retarded and developmentally disabled shall be under the supervision of a social worker who is a qualified mental retardation professional.

(c) Social services shall be integrated with other elements of the plan of care.

(d) A plan for such care shall be recorded in the resident's record and periodically evaluated in conjunction with resident's total plan of care.

(e) Social services records shall be maintained as an integral part of case record maintained on each resident.

(10) Recreation services. The facility shall coordinate recreational services with other services and programs provided to each resident and shall:

(a) Provide recreation equipment and supplies in a quantity and variety that is sufficient to carry out the stated objectives of the activities programs.

(b) Keep resident records that include periodic surveys of the residents' recreation interests and the extent and level of the residents' participation in the recreation program.

(c) Have enough qualified staff and support personnel available to carry out the various recreation services with the qualifications as defined in the definitions.

(11) Speech pathology and audiology services. The facility shall provide speech pathology and audiology services as needed to maximize the communication skills of residents needing such services. These services shall be provided by, or under the supervision of, a certified speech pathologist or audiologist who is a member of the interdisciplinary team.

(12) Occupational therapy.

(a) Occupational therapy shall be provided by or under the supervision of a qualified occupational therapist to residents as required by the resident's needs.

(b) The occupational therapist shall act upon the program designed by the professional interdisciplinary team of which the therapist is a member.

(13) Physical therapy.

(a) Physical therapy shall be provided by or under the supervision of a licensed physical therapist to residents as required by the resident's needs.

(b) The physical therapist shall act upon the program designed by the professional interdisciplinary team of which the therapist is a member.

(14) Psychological services. Psychological services as needed shall be provided by a licensed or certified psychologist pursuant to KRS Chapter 319 who shall participate in the evaluation and periodic review, individual treatment, and consultation and training of program staff as a member of the interdisciplinary team.

(15) Transportation.

(a) If transportation of residents is provided by the facility to community agencies or other activities, the following shall apply:

1. Special provision shall be made for residents who use wheelchairs.

2. An escort or assistant to the driver shall be provided in transporting residents to and from the facility if necessary for the resident's safety.

(b) The facility shall arrange for appropriate transportation in case of medical emergencies.

(16) Residential care services. All facilities shall provide residential care services to all residents including: room accommodations, housekeeping and maintenance services, and dietary services. All facilities shall meet the following requirements relating to the provision of residential care services:

(a) Room accommodations.

1. Each resident shall be provided a standard size bed at least thirty-six (36) inches wide, equipped with substantial spring, a clean comfortable mattress, a mattress cover, two (2) sheets and a pillow, an such bed covering as is required to keep the resident comfortable. Rubber or other impervious sheets shall be placed over the mattress cover whenever necessary. Beds occupied by residents shall be placed so that no resident may experience discomfort because of proximity to radiators, heat outlets, or by exposure to drafts.

2. The facility shall provide window coverings, bedside tables with reading lamps (if appropriate), comfortable chairs, chests or dressers with mirrors, a night light, and storage space for clothing and other possessions.

3. Residents shall not be housed in unapproved rooms or unapproved detached buildings.

4. Basement rooms shall not be used for sleeping rooms for residents.

5. Residents may have personal items and furniture when it is physically feasible.

6. Each living room or lounge area shall have an adequate number of reading lamps, and tables and chairs or settees of sound construction and satisfactory design.

7. Dining room furnishings shall be adequate in number, well constructed, and of satisfactory design for the residents.

8. Each resident shall be permitted to have his own radio and television set in his room unless it interferes with or is disturbing to

other residents.

(b) Housekeeping and maintenance services.

1. The facility shall maintain a clean and safe facility free of unpleasant odors. Odors shall be eliminated at their source by prompt and thorough cleaning of commodes, urinals, bedpans and other sources.

2. An adequate supply of clean linen shall be on hand at all times. Soiled clothing and linens shall receive immediate attention and shall not be allowed to accumulate. Clothing or bedding used by one resident shall not be used by another until it has been laundered or dry cleaned.

3. Soiled linen shall be placed in washable or disposable containers, transported in a sanitary manner and stored in separate, well-ventilated areas in a manner to prevent contamination and odors. Equipment or areas used to transport or store soiled linen shall not be used for handling or storing of clean linen.

4. Soiled linen shall be sorted and laundered in the soiled linen room in the laundry area. Handwashing facilities with hot and cold water, soap dispenser and paper towels shall be provided in the laundry area.

5. Clean linen shall be sorted, dried, ironed, folded, transported, stored and distributed in a sanitary manner.

6. Clean linen shall be stored in clean linen closets on each floor, close to the nurses' station.

7. Personal laundry of residents or staff shall be collected, transported, sorted, washed and dried in a sanitary manner, separate from bed linens.

8. Resident's personal clothing shall be laundered by the facility as often as necessary. Resident's personal clothing shall be laundered by the facility unless the resident or the resident's family accepts this responsibility. Residents capable of laundering their own personal clothing may be provided the facilities to do so. Resident's personal clothing laundered by the facility shall be marked to identify the resident owner and returned to the correct resident.

9. Maintenance. The premises shall be well kept and in good repair. Requirements shall include:

a. The facility shall insure that the grounds are well kept and the exterior of the building, including the sidewalks, steps, porches, ramps and fences are in good repair.

b. The interior of the building including walls, ceilings, floors, windows, window coverings, doors, plumbing and electrical fixtures shall be in good repair. Windows and doors shall be screened.

c. Garbage and trash shall be stored in areas separate from those used for the preparation and storage of food and shall be removed from the premises regularly. Containers shall be cleaned regularly.

d. A pest control program shall be in operation in the facility. Pest control services shall be provided by maintenance personnel of the facility or by contract with a pest control company. The compounds shall be stored under lock.

(c) Dietary services. The facility shall provide or contract for food service to meet the dietary needs of the residents including modified diets or dietary restrictions as prescribed by the attending physician. When a

facility contracts for food service with an outside food management company, the company shall provide a qualified dietitian on a full time, part time or consultant basis to the facility. The qualified dietitian shall have continuing liaison with the medical and nursing staff of the facility for recommendations on dietetic policies affecting resident care. The company shall comply with all of the appropriate requirements for dietary services in this regulation.

1. Therapeutic diets. If the designated person responsible for food service is not a qualified dietitian or nutritionist, consultation by a qualified dietitian or qualified nutritionist shall be provided.

2. Dietary staffing. There shall be sufficient food service personnel employed and their working hours, schedules of hours on duty, and days off shall be posted. If any food service personnel are assigned duties outside the dietary department, the duties shall not interfere with the sanitation, safety or time required from regular dietary assignments.

3. Menu planning:

a. Menus shall be planned, written and rotated to avoid repetition. Nutrition needs shall be met in accordance with the current recommended dietary allowances of the Food and Nutrition Board of the National Research Council adjusted for age, sex and activity, and in accordance with physician's orders.

b. Meals shall correspond with the posted menu. Menus must be planned and posted one (1) week in advance. When changes in the menu are necessary, substitutions shall provide equal nutritive value and the changes shall be recorded on the menu and kept on file for thirty (30) days.

c. The daily menu shall include regular and all modified diets served within the facility based on a currently approved diet manual. The manual shall be available in the dietary department. The diet manual shall indicate nutritional deficiencies of any diet. The dietitian shall correlate and integrate the dietary aspects of the resident's care with the resident and resident's chart through such methods as resident instruction, recording diet histories and through participation in rounds and conferences.

4. Food preparation and storage.

a. There shall be at least a three (3) day supply of food to prepare well balanced palatable meals.

b. Food shall be prepared with consideration for any individual dietary requirement. Modified diets, nutrient concentrates and supplements shall be given only on the written orders of a physician.

c. At least three (3) meals per day shall be served with not more than a fifteen (15) hour span between the substantial evening meal and breakfast. Between-meal snacks to include an evening snack before bedtime shall be offered to all residents. Adjustments shall be made when medically contraindicated.

d. Foods shall be prepared by methods that conserve nutritive value, flavor and appearance and shall be attractively served at the proper temperatures, and in a form to meet individual needs. (A file of tested recipes, adjusted to appropriate yield shall be maintained.) Food shall be cut, chopped or ground to meet

individual needs. If a resident refuses the food served, nutritious substitutions shall be offered.

e. All opened containers or left-over food items shall be covered and dated when refrigerated.

5. Serving of food. When a resident cannot be served in the dining room, trays shall be provided and shall rest on firm supports. Sturdy tray stands of proper height shall be provided for residents able to be out of bed.

a. Correct positioning of the resident to receive his tray shall be the responsibility of the direct-care staff. Residents requiring help in eating shall be assisted according to their training plan.

b. Adaptive self-help devices shall be provided to contribute to the resident's independence in eating, if assessments deem necessary.

6. Sanitation. All facilities shall comply with all applicable provisions of KRS 219.011 to KRS 219.081 and 902 KAR 45:005 (Kentucky's Food Service Establishment Act and Food Service Code). [The Division for Licensing and Regulation, Office of the Inspector General, Department for Human Resources shall carry out the provisions of this Act as they relate to inspections, follow-up and recommendations for issuance and revocation of food service permits.]

Section 5. 902 KAR 20:085 and 902 KAR 20:085E, Special services for mentally retarded and developmentally disabled, are, hereby repealed.

C. HERNANDEZ, Commissioner

E. AUSTIN, JR., Secretary

APPROVED BY AGENCY: December 14, 1984

FILED WITH LRC: January 4, 1985 at 10 a.m.

PUBLIC HEARING SCHEDULED: A public hearing on this regulation will be held on February 21, 1985, at 9 a.m., in the Department for Health Services Auditorium, 275 East Main Street, Frankfort, Kentucky. However, this hearing will be cancelled unless interested persons notify the following in writing by February 16, 1985 of their desire to appear and testify at the hearing: Hughes Walker, General Counsel, Cabinet for Human Resources, 275 East Main Street, Frankfort, Kentucky 40621.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Greg Lawther

(1) Type and number of entities affected: All ICF-MR/DD facilities and their employees.

(a) Direct and indirect costs or savings to those affected: The proposed amendments will result in a decrease in costs to these facilities and their employees by reducing the number of x-rays that need to be performed.

1. First year:

2. Continuing costs or savings:

3. Additional factors increasing or decreasing costs (note any effects upon competition):

(b) Reporting and paperwork requirements: All positive skin tests and suspicious chest x-rays must be reported to the local health department.

(2) Effects on the promulgating administrative body: None

(a) Direct and indirect costs or savings:

1. First year:

2. Continuing costs or savings:

3. Additional factors increasing or decreasing

costs:

- (b) Reporting and paperwork requirements:
- (3) Assessment of anticipated effect on state and local revenues: None
- (4) Assessment of alternative methods; reasons why alternatives were rejected: The only alternative was to leave the existing requirement as it is. The existing requirement results in unnecessary x-rays being performed.
- (5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: There is some overlap with the TB Control Act of 1970, KRS 215.520 to 215.600. However, there is no conflict.
- (a) Necessity of proposed regulation if in conflict: Not in conflict.
- (b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions:
- (6) Any additional information or comments: None

Tiering:

Was tiering applied? No. These are licensure regulations. All ICF-MR/DD facilities are required to meet the same standards.

CABINET FOR HUMAN RESOURCES
Department for Employment Services
Division of Unemployment Insurance
(Proposed Amendment)

903 KAR 5:150. Determination defined.

RELATES TO: KRS 131.570(1), 341.410
 PURSUANT TO: KRS 13A.100, [13.082,] 194.050, 341.115

NECESSITY AND FUNCTION: This regulation defines the term "determination" as used by the division.

Section 1. Any decision rendered by the Division of [for] Unemployment Insurance or its duly authorized representatives in writing affecting a worker's claim for unemployment benefits or the charges to an employer's reserve account for benefits paid or payable, or notice of income tax refund intercept issued by the Revenue Cabinet shall be a "determination."

JAMES P. DANIELS, Commissioner
 E. AUSTIN, JR., Secretary

APPROVED BY AGENCY: January 9, 1985

FILED WITH LRC: January 15, 1985 at Noon

PUBLIC HEARING SCHEDULED: A public hearing on this regulation has been scheduled for February 21, 1985, at 9 a.m., in the Health Service Auditorium, 275 East Main Street, Frankfort, Kentucky. However, this hearing will be cancelled unless interested persons notify the following office in writing by February 16, 1985, of their desire to appear and testify at the hearing. Hughes Walker, General Counsel, Office of the General Counsel, Cabinet for Human Resources, 275 East Main Street, Frankfort, KY 40601.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Commissioner James P. Daniels

- (1) Type and number of entities affected:

Unemployment insurance benefit claimants and taxable employers; thousand per year.

(a) Direct and indirect costs or savings to those affected:

- 1. First year: None.
- 2. Continuing costs or savings: None
- 3. Additional factors increasing or decreasing costs (note any effects upon competition): None

(b) Reporting and paperwork requirements: None

(2) Effects on the promulgating administrative body: Minimal

(a) Direct and indirect costs or savings: Minimal

- 1. First year: Minimal
- 2. Continuing costs or savings: Minimal
- 3. Additional factors increasing or decreasing costs: None

(b) Reporting and paperwork requirements: None

(3) Assessment of anticipated effect on state and local revenues: none

(4) Assessment of alternative methods; reasons why alternatives were rejected: n/a

(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: none

(a) Necessity of proposed regulation if in conflict: n/a

(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions: n/a

(6) Any additional information or comments: The amendment merely changes the definition of "determination" to include notices of income tax refund intercept issued by the Revenue Cabinet so that UI referees may legally hear appeals from such notices.

Tiering:

Was tiering applied? No. N/A

CABINET FOR HUMAN RESOURCES
Department for Employment Services
Division of Unemployment Insurance
(Proposed Amendment)

903 KAR 5:260. Unemployment insurance procedures.

RELATES TO: KRS 341.005 through 341.990

PURSUANT TO: KRS 13A.100, 194.050(1), 341.115

NECESSITY AND FUNCTION: Title III of the Social Security Act authorizes the states to implement an unemployment insurance program. The Cabinet for Human Resources is authorized by KRS 194.050 to adopt such rules and regulations as are necessary to implement programs mandated by federal law or to qualify for receipt of federal funds and as are necessary to cooperate with federal agencies for the proper administration of the cabinet and its programs. The function of this regulation is to implement the procedures required to administer the unemployment insurance program in accordance with applicable state and federal laws and regulations.

Section 1. In order to facilitate the administration of the unemployment insurance program as authorized by Title III of the Social Security Act and KRS Chapter 341, the following operating manuals are adopted by reference:

- (1) Unemployment Insurance Local Office Manual as issued February 1984 and last revised December 17 [October 3], 1984. This manual

includes procedures: for requiring proper identification of persons filing claims for benefits; for taking and processing initial, additional, reactivated and continued claims for benefits; for assigning claimants to the appropriate group for the eligibility review program; for conducting benefit rights interviews; for processing payorder cards for payment; for correcting and changing benefit data; for registering claimants for work; for conducting the eligibility review program; for stopping and releasing payment of benefits; for entering claim history and benefit payment information into the data base; for taking and processing interstate claims, combined wage claims, claims by former federal employees and ex-service-members, and claims for extended benefits and federal supplemental compensation benefits; for conducting investigations and issuing determinations regarding a claimant's separation, ability to work, availability for work, active search for work, benefit entitlement, and deductions from benefits; for processing employers' protests to claims; for taking requests for reconsideration of monetary eligibility; for establishing benefit overpayments and initiating recovery or recoupment by processing partial payment agreements or issuing liens; for initiating action on lost or returned checks; for detecting and initiating recovery of fraudulent overpayments; for filing appeals to eligibility determinations; for reporting workload time spent; for compiling claims and nonmonetary determination statistics; and for ranking of local offices based on performance criteria.

(2) Unemployment Insurance Benefit Branch Procedures Manual issued May, 1982 and last revised December 12 [September 5], 1984. This manual includes procedures for administering the payment of unemployment insurance benefits; for maintaining accounts for all benefit income and expenditures; for detecting, establishing and initiating recovery of benefit overpayments; for assigning benefit charges to employer accounts; for conducting a quality review of nonmonetary determinations affecting the payment of benefits; for processing unemployment claims for former federal employees, ex-service-members, combined wage claimants, interstate claims, claims for Disaster Unemployment Assistance, claims under the Trade Readjustment Act and claims under the Work Incentive Program; for reconsidering monetary rate determinations; for processing payment for lost or returned benefit checks; and for investigating potential fraud and recommendation of recovery action or criminal prosecution.

(3) Unemployment Insurance Tax Collection and Accounting Branch Manual issued November, 1982 and last revised October 29 [August 1], 1984. This manual includes procedures: for setting up, transferring and cancelling employer contribution and reimbursement accounts; for collecting quarterly taxes from contributory employers and for billing reimbursing employers for benefits paid; for auditing quarterly wage and tax reports by making adjustments, assessing additional payment and penalties and crediting tax overpayments; for maintaining records of employer accounts and tax payments; for adjusting wages if required when a reconsideration of monetary benefit eligibility is filed; and for collecting delinquent taxes by

filing tax liens, recommending suits and temporary restraining orders, garnishing wages, filing claims in bankruptcy or against monies due to delinquent employers from state agencies.

(4) Unemployment Insurance Administrative Support Branch Manual issued December, 1983 and last revised November 9, [March] 1984. This manual includes procedures: for maintaining files of benefit claims, employer records, appeals, and unemployment insurance commission orders; for maintaining mail security operations for all checks received by the division; for gathering statistics and conducting statistical studies; for verifying workload items for the budget process; for publishing statistical reports for the division and for general publication; for maintaining and distributing federal and state-released procedures; for maintaining all procedures manuals; for conducting the unemployment insurance quality appraisal; for training division personnel; for retaining and disposing of records; for providing data processing liaison services; for preparing state and federal budgets; for operating the Cost Model Management System; for maintaining the Cost Information System; for controlling forms control; and for monitoring purchases, expenditures and repairs.

(5) Unemployment Insurance Field Audit Manual issued February 1984 and last revised September 3, 1984. This manual includes procedures for handling matters which cannot be handled directly or expediently by the central office tax branch, such as procedures: for locating employers; for conducting investigations of employers, and their payrolls and employment records; for determining an employer's status under the law; for assessing contributions and collecting delinquent contributions; for serving legal papers; for conducting property investigations; for auditing employer records; and for furnishing technical assistance to employers.

(6) Unemployment Insurance Director's Office Manual issued November 18, 1983, and last revised December 12, 1984. This manual includes procedures for operating the Fraud Investigations and Internal Security Unit such as procedures for: administering the unit; detecting fraud; prosecuting fraud cases; closing out fraud cases; preventing fraud; maintaining internal security; and conducting other investigations.

Section 2. Summary of Amendment. (1) Unemployment Insurance Local Office Manual.

(a) Chapter 3000, Continued Claims, Section 3300, strike pages 39 and 40, dated 3-7-84, which contain procedures for microfilming payorder cards. [Chapter 2000, Initial Claims, Sections 2010, 2020 and 2170, strike pages 3 through 8, 29 and 30, all dated 7-13-84 and substitute in lieu thereof pages 3 through 4A, dated 10-2-84; pages 5 and 6, dated 9-14-84; pages 7 and 8, dated 10-2-84; and pages 29 and 30, dated 9-11-84, which update procedures for: randomly verifying work search contacts listed on the back of payorder cards; making Employment Services photo-identification cards for claimants who have neither a driver's license nor any other photo-identification; and completing a sufficient number of claim forms to determine the most recent ten (10) week potentially chargeable employer.]

(b) Chapter 2000, Initial Claims, Sections 2010, 2020, and 2170 strike pages 3 through 4; dated 10-2-84; pages 4A and 4B, dated 10-19-84; and pages 29 and 30, dated 9-11-84 and substitute in lieu thereof pages 3 and 4, dated 10-19-84; pages 4A and 4B, dated 11-9-84; and pages 29 and 30, dated 12-12-84 which update procedures for eliminating the taking of unnecessary requests for reconsideration and informing claimants during the benefit rights interview of the computer crossmatch of benefit payments and wages reported which is performed as a fraud detection measure. [Chapter 3000, Continued Claims, Sections 3040, 3060 and 3110, strike pages 5 and 6, dated 5-18-84; pages 9 and 10, dated 6-4-84; pages 13 and 14, dated 6-11-84; and pages 17 and 18, dated 7-13-84 and substitute in lieu thereof pages 5 and 6, dated 10-2-84; pages 9 and 10, dated 10-2-84; pages 13 and 14, dated 10-3-84; and pages 17 and 18, dated 9-11-84 which update procedures for: making Employment Services photo-identification cards for claimants who have neither a driver's license nor any other photo-identification; initialing completed data change requests; and randomly verifying work search contacts listed on the back of payorder cards.]

(c) Chapter 4000, Video Operations, Contents Page and Sections 4100, 4105, 4110, 4115, 4120, 4140, 4145 and 4150, strike Contents page, dated 11-2-84; pages 2 through 7, dated 10-13-83; and pages 8 through 21, dated 10-25-83 and substitute in lieu thereof Contents page, dated 11-9-84; pages 2 through 11, dated 10-19-84; pages 12 through 26, dated 10-25-84; and renumber pages 22 through 35 to pages 27 through 40 which update procedures for accessing: Program 48, New Wage Records; Program 40, Out-of-Balance Wage Record File; Program 42, Employer Status and Contributions; Program 41, UI Benefits Name Inquiry; Program 4B, UI Claims and Benefits Data; Program 43, UI Claim Determination; Program 4N, UI News; and Program 46, UI Micrographics Inquiry and Request.

(d) Chapter 6000, Claims Investigation, Sections 6000 through 6308, strike entire old chapter, various dates: pages 78, 79, 5, 6, 90, 91, 94 and 95, dated 10-17-84; pages 90 through 91A, dated 11-30-84; and pages 94 and 95, dated 11-30-84 and substitute in lieu thereof pages 1 through 105, all dated 10-17-84; pages 78 and 79, dated 11-9-84; pages 5 and 6, 90 through 91A, pages 94 and 95, all dated 11-30-84; pages 90 through 91A, dated 12-11-84; and pages 94 and 95, dated 12-7-84 which update procedures for: determining which separations may be disqualifying; determining the deductibility of income from benefits; determining the chargeable employer on a claim; handling employers' protests to claims; processing requests for monetary reconsiderations; conducting investigations for an issuance of nonmonetary determinations; and completing partial payment agreements and auditing local office receipt books; and accepting cash for repayment of benefit overpayments.

(e) Chapter 12000, Personnel and Time Distribution, Section 12027, strike pages 7 and 8, dated 1-27-84 and substitute in lieu thereof pages 7 and 8, dated 10-19-84 which includes a new time distribution code to be used for Quality Control workload.

(f) Chapter 7000, Fraud, Section 7200, strike pages 33 and 34, dated 1-31-84; and pages 33 and

34, dated 11-30-84 and substitute in lieu thereof pages 33 and 34, dated 11-30-84; and pages 33 and 34, dated 12-7-84 which update procedures for completing partial payment agreements.

(g) Chapter 14000, Forms and Charts, Sections 14215 and 14220, strike pages 25 and 26, dated 1-3-84; and pages 27 and 28, dated 1-6-83 and substitute in lieu thereof pages 25 and 26, dated 1-1-85; and pages 27 and 28, dated 12-19-84 which update the Benefit Year Ending Chart and the Official Benefit Calendar.

(2) Unemployment Insurance Tax Collections and Accounting Branch Manual.

(a) Chapter 100, Status, strike pages 5, 49, 92 and 93 and 99 through 104, all dated 8-1-84 and insert in lieu thereof pages 5, 49, 92 and 93 and 99 through 105, all dated 10-29-84 which update procedures for completing and issuing Notices of Cancellation or Transfer of Reserve Account, Advice of Change of Employer Record and Notices of Employer Subjectivity. [Unemployment Insurance Field Audit Manual, Chapter 300, Interpretations of the Law, Sections 339 and 342, strike Contents pages, dated 3-30-84; page 15, dated 2-1-84; page 16, dated 5-1-84; page 17, dated 2-1-84; page 18, dated 6-8-84; page 19, dated 5-1-84; pages 20 through 23, dated 2-1-84; pages 24 and 25, dated 5-1-84; page 26, dated 6-8-84; and pages 27 and 28, dated 2-1-84 and substitute in lieu thereof Contents pages and pages 15 through 30, all dated 9-3-84 which update procedures for: determining when Job Training Partnership Act training allowances are considered to be wages; and assigning the ten (10) percent tax rate to new contract construction employers.]

(b) [(3)] Chapter 400, Synopsis of Benefits, Sections 410, 420, 425 and 440, strike Contents page, dated 3-30-84; page 1, dated 9-3-84; pages 2 and 3, dated 2-1-84; page 4, dated 6-8-84; and pages 5 and 6, dated 2-1-84 and substitute in lieu thereof Contents page and pages 1 through 6, all dated 9-3-84 which update procedures for: assigning benefit charges to the most recent employer for whom the claimant worked in each of ten (10) weeks, whether or not consecutive; and determining the circumstances under which an otherwise eligible claimant may voluntarily quit his next most recent employment and still qualify for benefits.

(c) [(4)] Chapter 500, Procedures, Sections 507 and 568, strike Contents pages, dated 3-30-84 and 6-8-84; page 8, dated 6-8-84; and pages 38 and 38A, dated 6-8-84 and substitute in lieu thereof Contents pages, page 8 and pages 38 and 38A, all dated 9-3-84 which update procedures for assigning auditors to cases.

(3) Unemployment Insurance Administrative Support Branch Manual.

(a) Chapter 3000, Records Section, Sections 3118, 3320, 3330, 3332, 3334, 3340 and 3380, strike Contents page 2, dated 10-15-83; page 12, dated 2-22-84; pages 13 through 16 and pages 18 and 19, dated 10-15-83; page 2, dated 10-25-84; page 3, dated 11-17-83; pages 5, 7 and 8, dated 6-1-83; and page 13, dated 10-25-84 and substitute in lieu thereof Contents page 2, pages 12 through 16 and pages 18 and 19, dated 10-25-84; pages 2, 3, 5, 7, 8 and 13, dated 11-9-84 which update procedures for employer files maintenance and retention periods for documents.

(b) Chapter 4000, Statistical Services

Section. Sections 4330 and 4510, strike Contents page 3, dated 2-3-84; page 26, dated 2-13-84; and page 35, dated 12-15-84 and substitute in lieu thereof Contents page 3, page 26 and page 35, all dated 10-19-84 which update procedures for preparing the Department for Employment Services monthly report.

(4) Unemployment Insurance Benefit Branch Procedures Manual, Chapter 3000, Fraud, Section 3010, strike pages 1 and 2, various dates, and substitute in lieu thereof pages 1 and 2, dated 12-12-84 which update procedures for processing computer crossmatches of benefit payments and wages reported and increases the amount of fraudulently claimed benefits sufficient for prosecution.

(5) Unemployment Insurance Director's Office Manual, Chapter 1100, Fraud Investigations and Internal Security Unit, Section 1110, strike page 4, dated 11-18-83 and substitute in lieu thereof page 4, dated 12-12-84 which increases the amount of fraudulently claimed benefits sufficient for prosecution.

Section 3. All documents incorporated by reference herein are on file for public inspection in the Office of the Commissioner for Employment Services, 275 East Main Street, Frankfort, Kentucky 40621 and in local unemployment insurance offices located throughout the state.

JAMES P. DANIELS, Commissioner
E. AUSTIN, JR., Secretary

APPROVED BY AGENCY: January 9, 1985

FILED WITH LRC: January 15, 1985 at 12 noon

PUBLIC HEARING SCHEDULED: A public hearing on this regulation will be held on February 21, 1985, at 9 a.m., in the Health Services Auditorium, 275 East Main Street, Frankfort, Kentucky. Those interested in attending this hearing shall notify in writing the following office by February 16, 1985: Hughes Walker, General Counsel, Office of General Counsel, Cabinet for Human Resources, 275 East Main Street, Frankfort, KY 40621.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Commissioner James P. Daniels

(1) Type and number of entities affected: Unemployment Insurance benefit claimants; thousands per year

(a) Direct and indirect costs or savings to those affected: None

1. First year: None

2. Continuing costs or savings: None

3. Additional factors increasing or decreasing costs (note any effects upon competition): None

(b) Reporting and paperwork requirements: None

(2) Effects on the promulgating administrative body: Minimal

(a) Direct and indirect costs or savings: Minimal

1. First year: Minimal

2. Continuing costs or savings: Minimal

3. Additional factors increasing or decreasing costs: None

(b) Reporting and paperwork requirements: Minimal reduction

(3) Assessment of anticipated effect on state and local revenues: Minimal savings of state administrative funds

(4) Assessment of alternative methods; reasons why alternatives were rejected: N/A

(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: None

(a) Necessity of proposed regulation if in conflict: N/A

(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions: N/A

(6) Any additional information or comments: This amendment merely incorporates operational procedures by reference as required by KRS Chapter 13A.

Tiering:

Was tiering applied? No

If no, please explain why tiering was not applied: 1) Procedures already in effect

2) All claimants are treated equally under the law.

CABINET FOR HUMAN RESOURCES Department for Employment Services Division of Veteran's Employment Services (Proposed Amendment)

903 KAR 6:050. Veterans' benefits.

RELATES TO: KRS 194.030(9)

PURSUANT TO: KRS 13A.100, 194.050(1)

NECESSITY AND FUNCTION: Title 38, USC authorizes the states to implement veterans' employment and training programs. The Cabinet for Human Resources is authorized by KRS 194.050 to adopt such rules and regulations as are necessary to implement programs mandated by federal law or to qualify for receipt of federal funds and as are necessary to cooperate with federal agencies for the proper administration of the cabinet and its programs. The function of this regulation is to implement the veterans' training and benefit programs in accordance with applicable federal laws and regulations.

Section 1. In order to facilitate the administration of the veterans' programs as authorized by Title 38, USC, and as regulated in 20 CFR Parts 652 and 653, the following CFRs, federal statutes and bulletins are adopted by reference:

(1) Title 20, Code of Federal Regulations (CFR) Parts 652 and 653, dated March 30, 1984, which includes implementation procedures for providing veterans and eligible persons the maximum employment and training opportunities with priority given to the needs of disabled veterans and veterans of the Vietnam-era..

(2) Title 38, United States Code (USC), Chapter 41, as amended through January 14, 1983, which mandates the establishment of a job and job training counseling service program, an employment placement service program and a job training placement service program for eligible veterans and other eligible persons and the provision of maximum employment and training opportunities to veterans, with priority given to the needs of disabled veterans and veterans of the Vietnam-era through existing programs, coordination and merger of programs and implementation of new programs.

(3) Veterans Employment Representative (V.E.R.) Bulletins A through 17 which contain

implementation procedures for employment services provided to veterans in fulfillment of responsibilities mandated by law.

(4) Federal Contractor Job Listing (F.C.J.L.) Bulletins 1 through 4, which contain updated instructions and procedures for processing Federal Contractor Job Listing under the mandate of Public Law 93-50 requiring federal contractors and subcontractors to list suitable job openings with the appropriate local office of the Department for Employment Services.

(5) Public Law 96-466, The Veterans Rehabilitation and Education Amendments of 1980, which revised the disabled veterans vocational rehabilitation program and established the Disabled Veterans Outreach Program.

(6) Public Law 98-77, the Emergency Veterans' Job Training Act of 1983, which addresses problems of service and continuing unemployment among veterans by providing payments to defray the costs of training and incentives to employers to hire and train certain wartime veterans who have been unemployed for long periods of time for stable and permanent positions that require significant training.

(7) Public Law 97-300, the Job Training Partnership Act, which establishes programs to prepare youth and unskilled adults for entry into the labor force and to afford job training to those economically-disadvantaged individuals and other individuals facing serious barriers to employment who are in special need of such training to obtain productive employment, Title II, Part C of the Act specifically authorizes programs for veterans recently separated from military service, Vietnam-era veterans and disabled veterans.

(8) Title 41, Code of Federal Regulations (CFR), Parts 60-250, dated June 25, 1976, which mandates and provides procedures for ensuring compliance with Section 402 of the Vietnam-era Veterans Readjustment Act of 1974, which requires government contractors and subcontractors to take affirmative action to employ and advance the employment of qualified disabled veterans and veterans of the Vietnam-era.

(9) Public Law 98-543, the Veterans' Benefits Improvement Act of 1984, which increased various rates of compensation or benefits paid to eligible veterans in various programs administered by the Veterans Administration, extended the Veteran's Readjustment Appointment authority to September 30, 1986, extended several provisions of Public Law 98-77, and established the Special Program for Veterans in Receipt of Individual Unemployability and the Special Training Program for Veterans in Receipt of Pensions, which are administered by the Veterans Administration.

[Section 2. Summary of Amendment. Title 20, Code of Federal Regulations, Part 653, Subpart C, strike Table of Contents page 5b, dated 11-11-83, Table of Contents page 6, dated 11-30-83, page 7, dated 1-16-81, pages 8, 40, 41, 42, 43, 44, 45, and 46, all dated 1-30-83, pages 50 and 51, dated 8-12-81, pages 62 and 63, dated 1-16-81, and pages 64 through 76, dated 1-16-81 and 11-30-83 and substitute in lieu thereof Title 20, Code of Federal Regulations, Part 652, Subpart B, Table of Contents page 5b, dated 11-11-83, Table of Contents page 6, dated 5-15-84, and pages 7 and 8, and 40 through 50,

all dated 5-15-84, page 51, dated 8-12-81, page 62, dated 1-16-81 and page 63, dated 5-15-84, which update policies relating to the priority given to disabled veterans and veterans of the Vietnam-era in services provided through the public employment system and describes the roles and responsibilities of the Assistant Secretary and staff for Veterans' Employment and Training.]

Section 2. [3.] All documents incorporated by reference herein are on file for public inspection in the Office of the Commissioner for Employment Services, 275 East Main Street, Frankfort, Kentucky 40621, and in local employment services offices located throughout the state.

JAMES P. DANIELS, Commissioner

E. AUSTIN, JR., Secretary

APPROVED BY AGENCY: January 9, 1985

FILED WITH LRC: January 15, 1985 at 12 noon

PUBLIC HEARING SCHEDULED: A public hearing on this regulation will be held on February 21, 1985, at 9 a.m., in the Department for Health Services Auditorium, 275 East Main Street, Frankfort, Kentucky. Those interested in attending this hearing shall notify in writing the following office by February 16, 1985: Hughes Walker, General Counsel, Office of General Counsel, Cabinet for Human Resources, 275 East Main Street, Frankfort, KY 40621.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Commissioner James P. Daniels

(1) Type and number of entities affected: Veterans of armed forces; thousands per year

(a) Direct and indirect costs or savings to those affected: None

1. First year: None

2. Continuing costs or savings: None

3. Additional factors increasing or decreasing costs (note any effects upon competition): None

(b) Reporting and paperwork requirements: Minimal

(2) Effects on the promulgating administrative body: Minimal

(a) Direct and indirect costs or savings: None

1. First year: None

2. Continuing costs or savings: None

3. Additional factors increasing or decreasing costs: None

(b) Reporting and paperwork requirements: Minimal

(3) Assessment of anticipated effect on state and local revenues: None

(4) Assessment of alternative methods; reasons why alternatives were rejected: N/A

(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: None

(a) Necessity of proposed regulation if in conflict: N/A

(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions: N/A

(6) Any additional information or comments:

Tiering:

Was tiering applied? No

If no, please explain why tiering was not applied: 1) No impact involved

2) Procedures already in effect

CABINET FOR HUMAN RESOURCES
Department for Social Insurance
Division of Management and Development
(Proposed Amendment)

904 KAR 1:004. Resource and income standard of medically needy.

RELATES TO: KRS 205.520

PURSUANT TO: KRS 194.050

NECESSITY AND FUNCTION: The Cabinet for Human Resources has responsibility to administer the program of Medical Assistance in accordance with requirements of Title XIX of the Social Security Act. KRS 205.520(3) empowers the cabinet, by regulation, to comply with any requirement that may be imposed or opportunity presented by federal law for the provisions of medical assistance to Kentucky's indigent citizenry. This regulation sets forth the resource and income standards by which eligibility of the medically needy is determined.

Section 1. Resource Limitations and Exclusions of the Medically Needy. The following provisions are applicable with regard to computation of allowable resources:

(1) The upper limit for resources is \$1,600 [\$1,500] for family size of one (1), \$3,200 [\$3,000] for family size of two (2), and fifty (50) dollars for each additional member.

(2) A homestead, occupied or abandoned, household equipment, and farm equipment without limitation on value are excluded from consideration.

(3) Equity of \$6,000 in income-producing, non-homestead real property, business or non-business, essential for self-support, is excluded from consideration. In addition, the value of otherwise countable real property (whether income producing or non-income producing) may be excluded from consideration for six (6) months if a good faith effort is being made to dispose of the property properly; an additional three (3) months may be allowed for the disposal at the request of the recipient if efforts to dispose of the property within the six (6) month period have been unsuccessful.

(4) Equity of \$4,500 in automobiles is excluded from consideration; however, if an automobile is used for employment, to obtain medical treatment of a specific or regulation medical problem, or if specially equipped (e.g., as for use by the handicapped) the total value of such automobile is excluded.

(5) Burial reserves of up to \$3,000 [\$1,500] per individual, which may be in the form of burial agreement(s), (prepaid burials or similar arrangements, trust fund(s), [or] life insurance policies, or other separate and identifiable funds are excluded from consideration. The cash surrender value of life insurance is considered when determining the total value of burial reserves. When burial funds are commingled with other funds, the applicant has up to thirty (30) days to un-commingle the burial reserve amount.

(6) [Burial agreements (pre-paid burials or similar arrangements) and] Burial spaces, plots, or vaults are excluded from consideration as a countable resource without regard to value.

(7) Resources determined in accordance with subsections (3), (4), and (5) of this section to be in excess of excluded amounts must be considered countable resources when determining

whether the individual or family group exceeds the upper limits specified in subsection (1) of this section. If resources exceed the upper limits, the individual or family group is ineligible.

(8) The following exclusions are also applicable as stated:

(a) Proceeds from the sale of a home are excluded from consideration for three (3) months from date of receipt if used to purchase another home.

(b) Resources of a blind or disabled person necessary to fulfill an approved plan for achieving self-support are excluded from consideration.

(c) Payments or benefits from federal statutes, other than Title XVI (Supplemental Security Income), are excluded from consideration (as either a resource or income) if precluded from consideration in Title XVI determinations of eligibility by the specific terms of the statute.

(d) Disaster relief assistance is excluded from consideration.

(e) Cash or in-kind replacement for repair or replacement of an excluded resource is excluded from consideration if used to repair or replace the excluded resource within nine (9) months of the date of receipt.

Section 2. Income and Resource Exemptions. Income and resources which are exempted from consideration for purposes of computing eligibility for the comparable money payment program (Aid to Families With Dependent Children and Supplemental Security Income) shall be exempted from consideration by the cabinet, except that the AFDC earned income disregard (first thirty (30) dollars and one-third (1/3) of the remainder) may not be allowed in determining eligibility for medical assistance only for any eligible group but eligible children in intact families who meet the AFDC income and resources requirements; the thirty (30) dollars and one-third (1/3) of the remainder exemption for qualifying families shall be treated in the same manner as for AFDC cases except that eligibility may not be extended based on a loss of this disregard.

Section 3. Income Limitations of the Medically Needy. Eligibility from the standpoint of income is determined by comparing adjusted income as defined in Section 4 of this regulation, of the applicant, applicant and spouse, or applicant, spouse and minor dependent children with the following scale of income protected for basic maintenance:

Size of Family	Annual	Monthly
1	\$2,300	\$192
2	2,700	225
3	3,200	267
4	3,900	325
5	4,600	383
6	5,200	433

For each additional member, \$600 annually or fifty (50) dollars monthly is added to the scale.

Section 4. Additional Income Considerations. In comparing income with the scale as contained

in Section 3 of this regulation, gross income is adjusted as follows in all cases with exceptions as contained in Section 5 of this regulation:

(1) In cases of adults and children, the standard work related expenses of adult members and out-of-school youth are deducted from gross earnings. For those with either full-time or part-time employment the standard work expense deduction is seventy-five (75) dollars per month. All earnings of an in-school child are disregarded.

(2) In cases of adults and children, dependent care as a work expense is allowed not to exceed \$160 per child or incapacitated adult per month for full-time employment (as defined in subsection (1) of this section) or \$110 per child or incapacitated adult per month for part-time employment (as defined in subsection (1) of this section). A dependent care work expense deduction is allowed only when the dependent is included in the assistance unit.

Section 5. Individuals in Chronic Care Institutions. For aged, blind or disabled individuals in chronic care facilities, the following requirements with respect to income limitations and treatment of income shall be applicable.

(1) In determining eligibility, the appropriate medically needy standard is used as are appropriate disregards and exclusions from income. In determining patient liability for the cost of institutional care, gross income is used as shown in subsections (2) and (3) of this section.

(2) Income protected for basic maintenance is twenty-five (25) dollars monthly in lieu of the figure shown in Section 3 of this regulation. All income in excess of twenty-five (25) dollars is applied to the cost of care except as follows:

(a) Available income in excess of twenty-five (25) dollars is first conserved as needed to provide for needs of the spouse and minor children up to the appropriate family size amount from the scale as shown in Section 3 of this regulation.

(b) Remaining available income is then applied to the incurred costs of medical and remedial care that are not subject to payment by a third party, including Medicare and health insurance premiums and medical care recognized under state law but not covered under the state's Medicaid plan.

(3) The basic maintenance standard allowed the individual during the month of entrance into or exit from the long term care facility shall reasonably take into account home maintenance costs.

(4) When an individual loses eligibility for a supplementary payment due to entrance into a participating long term care facility, and the supplementary payment is not discontinued on a timely basis, the amount of any overpayment is considered as available income to offset the cost of care (to the Medical Assistance Program) if actually available for payment to the provider.

Section 6. Spend-Down Provisions. No technically eligible individual or family is required to utilize protected income for medical expenses before qualifying for medical assistance. Individuals with income in excess of the basic maintenance scale as contained in

Section 3 of this regulation may qualify for any part of a three (3) month period in which medical expenses incurred have utilized all excess income anticipated to be in hand during that period.

Section 7. Consideration of State Supplementary Payments. For an individual receiving state supplementary payments, that portion of the individual's income which is in excess of the basic maintenance standard is applied to the special need which results in the supplementary payment.

Section 8. Special Needs Contributions for Institutionalized Individuals. Voluntary payments made by a relative or other party on behalf of a long term care facility resident or patient shall not be considered as available income if made to obtain a special privilege, service, or item not covered by the Medical Assistance Program. Examples of such special services or items include television and telephone service, private room and/or bath, private duty nursing services, etc.

Section 9. Pass-through Cases. Increases in social security payments due to cost of living increases which are solely responsible for ineligibility of the individual for supplemental security income benefits or state supplementary payments, and which are received after April 1, 1977, shall be disregarded in determining eligibility for medical assistance benefits; such individuals shall remain eligible for the full scope of program benefits with no spend-down requirements.

Section 10. Relative Responsibility. For purposes of the Medical Assistance Program, spouses are considered responsible for spouses and parents are considered responsible for dependent minor children. Stepparents are responsible for their stepchildren as shown in Section 10(7) and Section 11 of this regulation. This responsibility, with regard to income and resources, is determined as follows:

(1) "Living with" is defined as sharing a common living arrangement or household, including living in the same room in a long term care facility. "Living apart" is defined as not sharing a common household, whether due to estrangement, disability, or illness.

(2) In cases of aged, blind, or disabled applicants or recipients living with their spouse, total resources and adjusted income of the couple is considered in relation to the resource and income limitations for a family size of two (2), or if other dependents live with the couple, the appropriate family size including the dependents.

(3) In cases of aged, blind, or disabled couples, living apart for any reason other than institutionalization, both of whom are concurrently applying for or receiving MA only, income and resources are considered in relation to resource and income limitations for a family size of two (2), or if other dependents live with either spouse, the family size including such dependents, but only for the first six (6) months after the month of separation, that such couple lives apart; however, if mutual consideration of income and resources causes the individuals to lose eligibility as a couple,

eligibility for the individuals is determined in accordance with subsection (4) of this section. If the separation is due to the institutionalization of a spouse, mutual consideration of income ceases in the month after the month of separation but resources are considered mutually available to each other the month of separation and the six (6) months following that month.

(4) In cases of an aged, blind, or disabled individual living apart from a spouse (for a reason other than institutionalization) who is not a recipient of MA only, eligibility is determined on a couple basis for the month of separation and as a single individual after the month of separation.

(5) For an individual whose case is being worked as if he/she were a single individual due to living apart from his/her spouse, as shown in Section 10(3) and (4) of this regulation, who has jointly held resources with his/her spouse, one-half (1/2) of the jointly held resource would be considered a resource; except that the entire amount of a jointly held checking or savings account is considered a resource if the resource may be accessed independently of the spouse.

(6) Total resources and adjusted income of parent(s) and children for whom application is made is considered in relation to limitations for family size. Excluded, however, is the income and/or resources of an SSI parent and the SSI essential person spouse whose medical assistance eligibility is based on inclusion in the SSI case. Resources and income of an SSI essential person, spouse or non-spouse, whose medical assistance eligibility is not based on inclusion in the SSI case must be considered.

(7) In cases of a blind or disabled child under eighteen (18) living with his/her parent(s) (including stepparent, if applicable), total resources and adjusted income of the parent(s) is related to limitations for family size, including the applicant or recipient child and other dependent children of parent using the adult scale. The income and resources of the parent(s) shall also be considered available to such child who is aged eighteen (18) through twenty-one (21), if in school, when to do so will work to the child's benefit and the individual was aged eighteen (18) through twenty-one (21) in September, 1980, and was MA eligible at that time.

(8) Income and resources of parent(s) are not considered available to a child living apart from the parents' for a period in excess of thirty (30) days, but any continuing contribution actually made is considered as income. Living apart may mean living in a medical institution, special school or in foster care and such status continues even if the child makes visits to the parent(s) home. For comparison with the resource and income limitations, the child's individual resources and/or income are considered in relation to family size of one (1).

(9) When a recipient in a family case has income and resources considered in relation to family size and enters a long term care facility, his/her income and resources are considered in the same manner as previously for up to one (1) year. For such an individual, the twenty-five (25) dollars maintenance standard is not applicable since his/her needs are

considered with that of other family members. The eligibility of the individual, with regard to income and resources, must be determined on the basis of living apart from the other family members whenever it becomes apparent that the separation will last for more than one (1) year.

Section 11. Treatment of Income of the Stepparent and Effect on Eligibility of the Assistance Group. An incapacitated (as determined by the department) stepparent's income is considered in the same manner as for a parent if the stepparent is included in the family case. When the stepparent living in the home is not being included in the family case on the basis of incapacity, the stepparent's gross income is considered available to the parent (but not the other members of the assistance group) subject to the following exclusions/disregards:

(1) The first seventy-five (75) dollars of the gross earned income of the stepparent who is employed full time or the first forty (40) dollars of the gross earned income of the stepparent who is employed part time (with full-time and part-time employment as defined in Section 4(1) of this regulation).

(2) An amount equal to the medically needy income limitations scale as shown in Section 3 of this regulation for the appropriate family size, for the support of the stepparent and any other individuals living in the home but whose needs are not taken into consideration in the medical assistance eligibility determination and are claimed by the stepparent as dependents for purposes of determining his/her federal personal income tax liability.

(3) Any amount actually paid by the stepparent to individuals not living in the home who are claimed by him/her as dependents for purposes of determining his/her personal income tax liability.

(4) Payments by the stepparent for alimony or child support with respect to individuals not living in the household.

(5) Income of a stepparent receiving Supplemental Security Income.

(6) Verified medical expenses for the stepparent and his/her dependents in the home.

Section 12. Companion Cases. When spouses or parent(s) and children living in the same household apply separately for assistance, relative responsibility must be taken into consideration.

(1) In the case of an application for assistance for a dependent child(ren), the income, resources and needs of the parent(s) must be included in the determination of need of the child(ren) even when the parent(s) applies for assistance for himself/herself on the basis of age, blindness, or disability (except as shown in subsection (3) of this section).

(2) In the case of a spouse, income and resources of both spouses are combined and compared against the medically needy income and resources limits for a family size of two (2) even though a separate determination of eligibility must be made for each individual.

(3) In the case of families with children with a parent eligible for supplemental security income (SSI), neither the income, resources, nor needs of the SSI eligible individual are to be included in the determination of eligibility of

the children.

Section 13. Treatment of Lump-Sum Income. Lump-sum income is considered available in the month of receipt or the first administratively feasible month thereafter.

[Section 14. Full-Month Ineligibility Due to First-Day of Month Excess Resources. When an individual or family group related to the SSI assistance categories (i.e., aged, blind, or disabled) has excess resources on the first day of the month, the individual or group is ineligible throughout the month. The case shall be discontinued effective with the first administratively feasible month.]

Section 14. [15.] Transferred Resources. When an applicant or recipient transfers a nonexcluded resource(s) for the purpose of becoming eligible for medical assistance, the value of the transferred resource(s) will be considered a resource to the extent provided for by this section. The provisions of this section are applicable to both family related cases and medical assistance only cases based on age, blindness, or disability.

(1) The disposal of a resource, including liquid assets, at less than fair market value shall be presumed to be for the purpose of establishing eligibility unless the individual presents convincing evidence that the disposal was exclusively for some other purpose. If the purpose of the transfer is for some other reason or if the transferred resource was considered an excluded resource at the time it was transferred, the value of the transferred resource is disregarded. If the resource was transferred for an amount equal to at least the assessed value for tax purposes, the resource will be considered as being disposed of for fair market value.

(2) After determining that the purpose of the transfer was to become or remain eligible, the cabinet shall first add the uncompensated equity value of the transferred resource to other currently held resources to determine if retention of the property would have resulted in ineligibility. For this purpose, the resource considered available shall be the type of resource it was prior to transfer, e.g., if non-homestead property was transferred, the uncompensated equity value of the transferred property would be counted against the permissible amount for non-homestead property. If retention of the resource would not have resulted in ineligibility, the value of the transferred resource would thereafter be disregarded.

(3) If retention would result in ineligibility, the cabinet will consider the excess transferred resource available for up to twenty-four (24) months, subject to the following conditions:

(a) The value of the total excess resources considered available (including the uncompensated equity value of the transferred resource) shall be reduced by \$500 for each month that has elapsed since the transfer, beginning with the month of transfer; except

(b) The reduction provided for in paragraph (a) shall not be applicable with regard to any month in which the individual received medical assistance but was actually ineligible due to

the provisions of this section.

(4) For those recipients who were receiving assistance on February 28, 1981, this section is applicable only with respect to resources transferred subsequent to that date.

(5) The uncompensated value may be excluded from consideration when good cause exists. A waiver of consideration of the uncompensated amount will be granted subject to the following criteria:

(a) "Good cause" means that an expense (or loss) was incurred by the individual or family group due to a natural disaster, fire, flood, storm or earthquake; or illness resulting from accident or disease; or hospitalization or death of a member of the immediate family; or civil disorder or other disruption resulting in vandalism, home explosions, or theft of essential household items.

(b) The exclusion may not exceed the amount of the incurred expense or loss.

(6) If the individual is in a long term care facility, the actual cost of long term care (rather than the \$500) may be deducted from the uncompensated value excess on a monthly basis.

Section 15. [16.] Special Provisions for AIS/MR Recipients. Effective April 1, 1983, medical assistance eligibility for participants in the program of alternative intermediate services for the mentally retarded (AIS/MR) shall be determined taking into consideration the special provisions contained in this section.

(1) The income and resources of the parent(s) and/or spouse shall not be considered available to the AIS/MR participant.

(2) Income protected for basic maintenance of the AIS/MR participant shall be the standard for the federal supplemental security income program.

(3) The attributed cost of care against which monthly available income of the AIS/MR participant shall be applied shall be the projected annual average cost of care for all participants divided by twelve (12) and rounded to the nearest dollar.

(4) Determinations of eligibility for medical assistance of the AIS/MR participant's parent(s), spouse, and/or dependent children shall be made on the same basis as if the participant was institutionalized.

Section 16. [17.] Implementation. The provisions of this regulation, as amended, will be effective on January 1, 1985 [October 1, 1984], applicable at the time of the next determination of eligibility for each applicant or recipient.

JACK F. WADDELL, Commissioner

E. AUSTIN, JR., Secretary

APPROVED BY AGENCY: January 2, 1985

FILED WITH LRC: January 4, 1985 at 10 a.m.

PUBLIC HEARING SCHEDULED: A public hearing on this regulation has been scheduled for February 21, 1985 at 9 a.m. in the Department for Health Services Auditorium, 275 East Main Street, Frankfort, Kentucky. However, this hearing will be cancelled unless interested persons notify the following office in writing by February 16, 1985 of their desire to appear and testify at the hearing: R. Hughes Walker, General Counsel, Cabinet for Human Resources, 275 East Main Street, 4-West, Frankfort, Kentucky 40621.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Roy Butler

(1) Type and number of entities affected: 50 to 100 applicants or recipients

(a) Direct and indirect costs or savings to those affected: None

1. First year:

2. Continuing costs or savings:

3. Additional factors increasing or decreasing costs (note any effects upon competition):

(b) Reporting and paperwork requirements: None

(2) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings:

1. First year: \$25,000 to \$50,000 (costs)

2. Continuing costs or savings: Same

3. Additional factors increasing or decreasing costs: None

(b) Reporting and paperwork requirements: None

(3) Assessment of anticipated effect on state and local revenues: None

(4) Assessment of alternative methods; reasons why alternatives were rejected: N/A

(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: None

(a) Necessity of proposed regulation if in conflict:

(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions:

(6) Any additional information or comments: None

Tiering:

Was tiering applied? No. Not applicable for Medicaid regulations.

CABINET FOR HUMAN RESOURCES
Department for Social Insurance
Division of Management and Development
(Proposed Amendment)

904 KAR 1:011. Technical eligibility requirements.

RELATES TO: KRS 205.520

PURSUANT TO: KRS 194.050

NECESSITY AND FUNCTION: The Cabinet for Human Resources has responsibility to administer the program of Medical Assistance in accordance with Title XIX of the Social Security Act. KRS 205.520(3) empowers the cabinet by regulation to comply with any requirement that may be imposed or opportunity presented by federal law for the provision of Medical Assistance, hereinafter referred to as MA, to Kentucky's indigent citizenry. This regulation sets forth the technical eligibility requirements of the MA Program.

Section 1. The Categorically Needy. All individuals receiving Aid to Families with Dependent Children, Supplemental Security Income or Optional or Mandatory State Supplementation are eligible for MA as categorically needy individuals. In addition, the following classifications of needy persons are included in the program as categorically needy and thus eligible for MA participation.

(1) Children in foster family care or private non-profit child caring institutions dependent

in whole or in part on a governmental or private agency;

(2) Children in psychiatric hospitals or medical institutions for the mentally retarded;

(3) Pregnant women, when the unborn child is deprived of parental support due to death, absence, incapacity or unemployment of the father;

(4) Children of unemployed parents;

(5) Children in subsidized adoptions dependent in whole or in part on a governmental agency;

(6) Families terminated from the Aid to Families with Dependent Children (AFDC) program because of increased earnings or hours of employment;

(7) Children [in intact families] (but not their parents) who meet the income and resource requirements of the Aid to Families with Dependent Children program, who were born after September 30, 1983 and who are under the age of five (5); and

(8) A child(ren) born to a woman eligible for and receiving medical assistance, so long as the child(ren) has not reached his/her first birthday, resides in the household of the woman, and the woman remains eligible for such assistance. In this situation, an application is deemed to have been made and the child found eligible for MA as of the date of birth.

Section 2. The Medically Needy. Other individuals ([but not] including children [in intact families] as shown in Section 1(7) of this regulation), and pregnant women meeting income and resource standards of the medically needy program, meeting technical requirements comparable to the categorically needy group, but with sufficient income to meet their basic maintenance needs may apply for MA with need determined in accordance with income and resource standards prescribed by regulation of the Cabinet for Human Resources. Included within the medically needy eligible groups are pregnant women during the course of their pregnancy. For individuals covered on January 1, 1985 pursuant to this section, the usual three (3) month rule on retroactivity (as shown in Section 3(15)) will apply.

Section 3. Technical Eligibility Requirements. Technical eligibility factors of families and individuals included as categorically needy under subsections (1) through (6) of Section 1, or as medically needy under Section 2 are:

(1) Children in foster care, private institutions, psychiatric hospitals or mental retardation institutions must be under eighteen (18) years of age (or under age nineteen (19) if a full-time student in a secondary school or the equivalent level of vocational or technical training and if expected to complete the program before age nineteen (19));

(2) Pregnant women are eligible only upon medical proof of pregnancy;

(3) Unemployment relating to eligibility of both parents and children is defined as:

(a) Employment of less than 100 hours per month, except that the hours may exceed that standard for a particular month if the work is intermittent and the excess is of a temporary nature as evidenced by the fact that the individual was under the 100 hour standard for the prior two (2) months and is expected to be

under the standard during the next month;

(b) The individual has prior labor market attachment consisting of earned income of at least fifty dollars (\$50) during six (6) or more calendar quarters ending on March 31, June 30, September 30, or December 31, within any thirteen (13) calendar quarter period ending within one (1) year of application, or the individual within twelve (12) months prior to application received unemployment compensation;

(c) The individual is currently receiving or has been found ineligible for unemployment compensation;

(d) The individual is currently registered for employment at the state employment office, and available for full-time employment;

(e) The unemployed parent must not have refused suitable employment without good cause as determined in accordance with 45 CFR Section 233.100(a)(3)(ii).

(4) Under the definition contained in subsection (3) of this section, a parent shall not be considered as unemployed if he is:

(a) Temporarily unemployed due to weather conditions or lack of work when it is anticipated he can return to work within thirty (30) days; or

(b) On strike, or unemployed as a result of involvement in a labor dispute when such involvement would disqualify the individual from eligibility for unemployment insurance in accordance with KRS 341.360; or

(c) Unemployed because he voluntarily quit his most recent work for the purpose of attending school; or

(d) A farm owner or tenant farmer, unless he has previously habitually required and secured outside employment and currently is unable to secure outside employment; or

(e) Self-employed and not available for full-time employment.

(5) An aged individual must be at least sixty-five (65) years of age.

(6) A blind individual must meet the definition of blindness as contained in Titles II and XVI of the Social Security Act relating to RSDI and SSI.

(7) A disabled individual must meet the definition of permanent and total disability as contained in Titles II and XVI of the Social Security Act relating to RSDI and SSI.

(8) For families losing AFDC eligibility solely because of increased earnings or hours of employment, medical assistance shall continue for four (4) months to all such family members as were included in the family grant (and children born during the four (4) month period) if the family received AFDC in any three (3) or more months during the six (6) month period immediately preceding the month in which it became ineligible for AFDC. The four (4) month period begins on the date AFDC is terminated. If AFDC benefits are paid erroneously for one (1) or more months in such a situation, the four (4) month period begins with the first month in which AFDC was erroneously paid, i.e., the month in which the AFDC should have been terminated.

(9) Families losing AFDC eligibility solely due to loss of the thirty (30) dollars disregard or the one-third (1/3) disregard from earnings shall be deemed AFDC eligible for nine (9) months after the termination of the disregard, and shall as a result be eligible for continued medical assistance for the nine (9) month

period. To qualify for continuing eligibility in this situation, the family must have received AFDC in any three (3) or more months during the six (6) month period immediately preceding the month in which it became ineligible for AFDC. The nine (9) month period begins on the date AFDC is terminated. If AFDC benefits are paid erroneously for one (1) or more months in such a situation, the nine (9) month period begins with the first month in which AFDC was erroneously paid, i.e., the month in which the AFDC should have been terminated. Coverage for medical assistance is extended to all family members who were included in the grant (and children born during the nine (9) month period).

(10) Families losing AFDC eligibility as a result (wholly or partly) of the collection or increased collection of child or spousal support, and who received AFDC in at least three (3) of the six (6) months immediately preceding the month in which such ineligibility begins, shall be deemed AFDC eligible for Title XIX purposes for four (4) months beginning with the month in which ineligibility begins. If AFDC benefits are paid erroneously for one (1) or more months in such a situation, the four (4) month period begins with the first month in which AFDC was erroneously paid, i.e., the month in which the AFDC should have been terminated. Coverage for medical assistance is extended to all family members losing eligibility as a result of the receipt of the child or spousal support. The extended eligibility provision contained herein is applicable only with respect to families discontinued on or after July 18, 1984 and before October 1, 1988.

(11) Parents may be included for assistance in the cases of families with children including natural and adoptive parents. Other relatives who may be included in the case (one (1) only) are caretaker relatives to the same extent they may be eligible in the Aid to Families with Dependent Children Program.

(12) An applicant who is deceased may have eligibility determined in the same manner as if he was alive, in order to pay medical bills during the terminal illness.

(13) Children of the same parent, i.e., a "common" parent, residing in the same household shall be included in the same case unless this acts to preclude eligibility of an otherwise eligible household member.

(14) To be eligible, an applicant or recipient must be a citizen of the United States, or an alien legally admitted to this country or an alien who is residing in this country under color of law. An alien must have been admitted for permanent residence. The applicant or recipient must also be a resident of Kentucky. Generally, this means the individual must be residing in the state for other than a temporary purpose; however, there are exceptions with regard to recipients of a state supplementary payment and institutionalized individuals. The conditions for determining state residency are specified in federal regulations at 42 CFR 435.403, which are hereby incorporated by reference.

(15) An individual may be determined eligible for medical assistance for up to three (3) months prior to the month of application if all conditions of eligibility are met. The effective date of medical assistance is generally the first day of the month of eligibility. For

individuals eligible on the basis of unemployment, eligibility may not exist for the thirty (30) day period following the starting date of the unemployment. In these cases, the effective date of eligibility may be as early as the first day following the end of the thirty (30) day period if all other conditions of eligibility are met. For individuals eligible on the basis of desertion, a period of desertion must have existed for thirty (30) days, and the effective date of eligibility may not precede the first day of the month in which the thirty (30) day period ends. For individuals eligible on the basis of utilizing their excess income for incurred medical expenses, the effective date of eligibility is the day the spend-down liability is met.

(16) "Child" means a needy dependent child under the age of eighteen (18) (or under age nineteen (19) if a full-time student in a secondary school or the equivalent level of vocational or technical training and if expected to complete the program before the age nineteen (19)), who is not otherwise emancipated, self-supporting, married, or a member of the armed forces of the United States, and who is a recipient of or applicant for public assistance. Included within this definition is an individual(s) meeting the age requirement specified above, previously emancipated, who has returned to the home of his parents, or to the home of another relative, so long as such individual is not thereby residing with his spouse.

(17) Benefits shall be denied to any family for any month in which any legally liable caretaker relative with whom the child is living is, on the last day of such month, participating in a strike, and no individual's needs shall be considered in determining eligibility for medical assistance for the family if, on the last day of the month, such individual is participating in a strike. The definition of a strike includes a strike or other concerted stoppage of work by employees (including a stoppage by reason of expiration of a collective bargaining agreement) and any concerted slowdown or other concerted interruption of operations by employees.

Section 4. Institutional Status. No individual shall be eligible for MA if a resident or inmate of a non-medical public institution. No individual shall be eligible for MA while a patient in a state tuberculosis hospital unless he has reached age sixty-five (65). No individual shall be eligible for MA while a patient in a state institution for mental illness unless he is under age eighteen (18) (or under age nineteen (19) if a full-time student in a secondary school or the equivalent level of vocational or technical training and if expected to complete the program before age nineteen (19)) or is sixty-five (65) years of age or over.

Section 5. Application for Other Benefits. As a condition of eligibility for medical assistance, applicants and recipients must apply for all annuities, pensions, retirement and disability benefits to which they are entitled, unless they can show good cause for not doing so. Good cause is considered to exist when such benefits have previously been denied with no change of circumstances, or the individual does

not meet all eligibility conditions. Annuities, pensions, retirement and disability benefits include, but are not limited to, veterans' compensations and pensions, retirement and survivors disability insurance benefits, railroad retirement benefits, and unemployment compensation. Notwithstanding the preceding, no applicant or recipient shall be required to apply for federal benefits when the federal law providing for such benefits shows the benefit to be optional and that the potential applicant or recipient for such benefit need not apply for such benefit when to do so would, in his opinion, act to his disadvantage.

Section 6. Assignment of Rights to Medical Support. By accepting assistance for or on behalf of a child, a recipient is deemed to have made an assignment to the Cabinet for Human Resources of any medical support owed for the child not to exceed the amount of medical assistance payments made on behalf of the recipient.

Section 7. Date of Implementation. The provisions of this regulation, as amended, shall be effective on January 1, 1985 [October 1, 1984].

JACK F. WADDELL, Commissioner

E. AUSTIN, JR., Secretary

APPROVED BY AGENCY: January 2, 1985

FILED WITH LRC: January 4, 1985 at 10 a.m.

PUBLIC HEARING SCHEDULED: A public hearing on this regulation has been scheduled for February 21, 1985 at 9 a.m. in the Department for Health Services Auditorium, 275 East Main Street, Frankfort, Kentucky. However, this hearing will be cancelled unless interested persons notify the following office in writing by February 16, 1985 of their desire to appear and testify at the hearing: R. Hughes Walker, General Counsel, Cabinet for Human Resources, 275 East Main Street, 4-West, Frankfort, Kentucky 40621.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Roy Butler

(1) Type and number of entities affected: Approximately 300 additional eligible children per year for four (4) years (1,200 cumulative); about 2,400 pregnant women each year.

(a) Direct and indirect costs or savings to those affected: None

1. First year:

2. Continuing costs or savings:

3. Additional factors increasing or decreasing costs (note any effects upon competition):

(b) Reporting and paperwork requirements: None

(2) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings:

1. First year: \$2,350,000 (costs)*

2. Continuing costs or savings: \$3,300,000 (after four years) (costs)**

3. Additional factors increasing or decreasing costs: See #6 below

(b) Reporting and paperwork requirements: None

(3) Assessment of anticipated effect on state and local revenues: None

(4) Assessment of alternative methods; reasons why alternatives were rejected: N/A

(5) Identify any statute, administrative regulation or government policy which may be in

conflict, overlapping, or duplication: None

(a) Necessity of proposed regulation if in conflict:

(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions:

(6) Any additional information or comments:

*Assumes 2,250 pregnant women and up to 300 children, with the children's cost phased in.

**Assumes 2,250 pregnant women and up to 1,200 children at full cost.

Tiering:

Was tiering applied? No. Not applicable for Medicaid regulations.

CABINET FOR HUMAN RESOURCES
Department for Social Insurance
Division of Management and Development
(Proposed Amendment)

904 KAR 1:250. Incorporation by reference of materials relating to the Medical Assistance Program.

RELATES TO: KRS 194.030(6), 205.520

PURSUANT TO: KRS 194.050

NECESSITY AND FUNCTION: The Cabinet for Human Resources has responsibility to administer the program of Medical Assistance in accordance with Title XIX of the Social Security Act. KRS 205.520 empowers the cabinet, by regulation, to comply with any requirement that may be imposed, or opportunity presented, by federal law for the provision of medical assistance to Kentucky's indigent citizenry. This regulation incorporates into regulatory form, by reference, materials used by the cabinet in the implementation of the Medical Assistance Program and is applicable for both the categorically and medically needy.

Section 1. Incorporation by Reference. The cabinet shall incorporate by reference materials used in the implementation of the Medical Assistance Program, subject to the provisions contained in 904 KAR 2:140, Section 1, Supplementary policies for programs administered by the Department for Social Insurance.

Section 2. Listing of Incorporated Material. The following listed materials are hereby incorporated by reference, effective on the date shown:

(1) Federal Medicaid regulations at 42 CFR Parts 430-456, and interim final regulations at 42 CFR Parts 430-456, effective January 1, 1985 [May 16, 1984]. The regulations contain federal supplementary policies, interpretations and implementing instructions for the Medical Assistance Program as authorized by Title XIX of the Social Security Act.

(2) Federal "State Medicaid Manual," effective January 1, 1985 [October 1 1984]. The "State Medicaid Manual" contains federal interpretations and clarifications of policy relating to implementation of the Medical Assistance Program.

(3) Federal action transmittals issued by the Health Care Financing Administration as follows: HCFA-AT-79-63, 79-72, 79-98, 80-9, 80-59, 81-23, 81-33, 81-35, 82-1, 82-2, 82-20, 83-1, 83-4, 83-7, 83-8, 83-11, 84-1, 84-2, 84-4, 84-5, [and] 84-10, and 84-16, effective January 1, 1985

[October 1, 1984]. Action transmittals contain federal instructions relating to implementation of the Medical Assistance Program.

(4) Federal transmittal notices issued by the Health Care Financing Administration as follows: DQC-1-82, 10-82; DPO-76-81, 77-81, 78-81; MCD-46-81, 48-81, 55-81, 61-81, 62-81, 64-81, 67-81, 82-81, 86-81, 87-81, 89-81, 92-81, 1-82, 2-82, 6-82, 7-82, 10-82, 14-82, 16-82, 17-82, 18-82, 19-82, 25-82, 26-82, 28-82, 30-82, 33-82, 34-82, 35-82, 38-82, 41-82, 42-82, 50-82, 52-82, 2-83, 5-83, 9-83, 11-83, 12-83, 13-83, 14-83, 15-83, 19-83, 20-83, 26-83, 28-83, 29-83, 30-83, 35-83, 39-83, 40-83, 42-83, 1-84, 6-84, 7-84, 8-84, 9-84, 11-84, 13-84, 14-84, 15-84, 16-84, 18-84, 20-84, 23-84, 24-84, 25-84, 26-84, 27-84, 29-84, 34-84, [and] 35-84, 36-84, 39-84, and 48-84, effective January 1, 1985 [October 1, 1984]. Transmittal notices contain federal clarifications of policy relating to implementation of the Medical Assistance Program.

(5) Medicare and Medicaid Guide, Volumes I, II, III, and IV, as published by the Commerce Clearing House, Inc., with the following related new developments transfer binders: 1981-1, 1981-2, 1982, 1983-1, 1983-2, and 1984-1, effective January 1, 1985 [October 1, 1984]. The Medicare and Medicaid Guide contains reprints of federal laws and regulations relating to the Medicare and Medicaid programs; reprints of Medicare/Medicaid related court decisions; Medicare principles of reimbursement; summaries of state plan characteristics; and other items of general information relating to the Medicare and Medicaid programs. Although the cabinet is bound by federal Medicaid law and regulations in the implementation of the Medical Assistance Program, the Guide is used principally as supplementary material for reimbursement issues in situations where the cabinet's vendor reimbursement system uses the Medicare cost principles in unaddressed areas.

(6) State Medicaid Program policies and procedures manuals issued by the cabinet, and which contain benefit descriptions and operating instructions used by agency staff and participating vendors in the provision of, and billing for, Medical Assistance benefits provided eligible program recipients, as follows:

(a) Home and Community Based Services Waiver Project Adult Day Health Care Services, effective May 16, 1984;

(b) Alternative Intermediate Services/Mental Retardation Project, effective October 1, 1984;

(c) Birthing Center Services, effective January 1, 1985 [May 16, 1984];

(d) Community Mental Health Benefits, effective May 16, 1984;

(e) Dental Benefits, effective May 16, 1984;

(f) Early and Periodic Screening, Diagnosis and Treatment Benefits, effective May 16, 1984;

(g) Family Planning Benefits, effective May 16, 1984;

(h) Hearing Services Benefits, effective January 1, 1985 [May 16, 1984];

(i) Home and Community Based Services Waiver Project, effective May 16, 1984;

(j) Home Health Benefits, effective May 16, 1984;

(k) Hospital Services Benefits, effective January 1, 1985 [May 16, 1984];

(l) Independent Laboratory Services Benefits, effective January 1, 1985 [May 16, 1984];

(m) Intermediate Care Facility Benefits,

effective January 1, 1985 [May 16, 1984];
 (n) Mental Hospital Services Benefits, effective May 16, 1984;
 (o) Nurse Anesthetist Services, effective May 16, 1984;
 (p) Nurse Midwife, effective May 16, 1984;
 (q) Pharmacy Benefits, effective January 1, 1985 [October 1, 1984];
 (r) Physician Benefits, effective January 1, 1985 [May 16, 1984];
 (s) Primary Care Benefits, effective May 16, 1984;
 (t) Rural Health Clinic Benefits, effective May 16, 1984;
 (u) Skilled Nursing Facility Benefits, effective January 1, 1985 [May 16, 1984];
 (v) Ambulance Transportation Benefits, effective May 16, 1984, as revised; [and]
 (w) Vision Services Benefits, effective May 16, 1984; [.]
 (x) Pharmacy letters, effective January 1, 1985; and
 (y) Podiatry Letter #A-3, effective January 1, 1985.

Section 3. All documents incorporated by reference herein may be reviewed during regular working hours in the Division of Management and Development, Department for Social Insurance, 275 East Main Street, Frankfort, Kentucky.

JACK F. WADDELL, Commissioner

E. AUSTIN, JR., Secretary

APPROVED BY AGENCY: January 15, 1985

FILED WITH LRC: January 15, 1985 at 12 noon

PUBLIC HEARING SCHEDULED: A public hearing on this regulation has been scheduled for February 21, 1985 at 9 a.m. in the Department for Health Services Auditorium, 275 East Main Street, Frankfort, Kentucky. However, this hearing will be cancelled unless interested persons notify the following office in writing by February 16, 1985 of their desire to appear and testify at the hearing: R. Hughes Walker, General Counsel, Cabinet for Human Resources, 275 East Main Street, 4 West, Frankfort, Kentucky 40621

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Roy Butler

(1) Type and number of entities affected: All providers or potential providers of services under the Medicaid programs

(a) Direct and indirect costs or savings to those affected: None

1. First year:

2. Continuing costs or savings:

3. Additional factors increasing or decreasing costs (note any effects upon competition):

(b) Reporting and paperwork requirements: None

(2) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings: None*

1. First year:

2. Continuing costs or savings:

3. Additional factors increasing or decreasing costs:

(b) Reporting and paperwork requirements: None

(3) Assessment of anticipated effect on state and local revenues: None

(4) Assessment of alternative methods; reasons why alternatives were rejected: N/A

(5) Identify any statute, administrative regulation or government policy which may be in

conflict, overlapping, or duplication: None

(a) Necessity of proposed regulation if in conflict:

(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions:

(6) Any additional information or comments:
 *Any cost impact has been shown in the implementing regulations for the particular program or service element

Tiering:

Was tiering applied? No. Not applicable for Medicaid regulations.

CABINET FOR HUMAN RESOURCES Department for Social Insurance Division of Management and Development (Proposed Amendment)

904 KAR 2:140. Supplementary policies for programs administered by the Department for Social Insurance.

RELATES TO: KRS 194.030(6), Chapter 205

PURSUANT TO: KRS 194.050

NECESSITY AND FUNCTION: KRS 194.010 designates the Cabinet for Human Resources as the primary state agency responsible for the development and operation of assistance programs, and KRS 194.050 empowers the secretary of the Cabinet for Human Resources to adopt, administer and enforce regulations sufficient to operate the programs and fulfill the responsibilities vested in the cabinet. This regulation states the general policy of the cabinet with regard to program materials incorporated into regulatory form by reference for use by the Department for Social Insurance, and incorporates by reference materials related to the programs of aid to families with dependent children, medical assistance, home energy assistance, refugee assistance, food stamps, child support enforcement, state supplemental payments for the aged, blind or disabled, disability determination, and collections which are essential for the implementation of those programs.

Section 1. General Policy Relating to Program Materials Incorporated by Reference. (1) Kentucky administrative regulations relating to program matters reflect the policy of the cabinet with regard to the issues addressed in the regulation.

(2) Materials incorporated by reference shall be construed and interpreted in such a manner as to be consistent with the intent of agency policy as reflected in Kentucky administrative regulations, and shall be considered the agency statement of policy with regard to issues not otherwise addressed in Kentucky administrative regulations.

Section 2. Incorporation by Reference. The following listed materials are hereby incorporated by reference, effective on the date shown.

(1) Department for Social Insurance Manual of Operations, effective January 1, 1985 [October 1, 1984]. The Manual of Operations provides operating instructions, procedural detail, and technical clarification for use of the

department's field staff in implementing programs, under the authority of the department, including: aid to families with dependent children; refugee assistance; home energy assistance; child support enforcement; state supplementary payments; and medical assistance.

(2) Department for Social Insurance Manual of Forms, effective January 1, 1985 [October 1, 1984]. The Manual of Forms provides forms with instructions for completion, usage, distribution and files maintenance for use of the department's field staff in implementing programs under the authority of the department, including: aid to families with dependent children; refugee assistance; home energy assistance; child support enforcement; state supplementary payments; medical assistance; and the food stamp program.

(3) Federal regulations at 45 CFR Parts 16, 74, and 95, effective May 16, 1984. Part 16, Procedures of the Departmental Grant Appeals Board, provides requirements and procedures applicable to resolution of certain disputes arising under several assistance programs funded by the United States Department of Health and Human Services. Part 74, Administration of Grants, establishes uniform requirements for the administration of grants provided under the authority of the United States Department of Health and Human Services, and principles for determining costs applicable to activities assisted by Department of Health and Human Services grants. Part 95, General Administration - Grant Programs (Public Assistance and Medical Assistance), establishes requirements of the United States Department of Health and Human Services for various administrative matters relating to grant programs, including time limits for states to file claims, cost allocation plans, and conditions for federal financial participation for automatic data processing equipment and services.

Section 3. All documents incorporated by reference herein may be reviewed during regular working hours in the Division of Management and Development, Department for Social Insurance, 275 East Main Street, Frankfort, Kentucky.

JACK F. WADDELL, Commissioner
E. AUSTIN, JR., Secretary

APPROVED BY AGENCY: January 11, 1985

FILED WITH LRC: January 15, 1985 at 12 noon

PUBLIC HEARING SCHEDULED: A public hearing on this regulation has been scheduled for February 21, 1985 at 9 a.m. in the Department for Health Services Auditorium, 275 East Main Street, Frankfort, Kentucky. However, this hearing will be cancelled unless interested persons notify the following office in writing by February 16, 1985, of their desire to appear and testify at the hearing: R. Hughes Walker, General Counsel, Cabinet for Human Resources, 275 East Main Street, 4-West, Frankfort, Kentucky 40621.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Roy Butler

(1) Type and number of entities affected: All applicants for or recipients of public welfare programs administered by the Department.

(a) Direct and indirect costs or savings to those affected:

1. First year:

2. Continuing costs or savings:

3. Additional factors increasing or decreasing costs (note any effects upon competition):

(b) Reporting and paperwork requirements: None

(2) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings: None*

1. First year:

2. Continuing costs or savings:

3. Additional factors increasing or decreasing costs:

(b) Reporting and paperwork requirements: None

(3) Assessment of anticipated effect on state and local revenues: None

(4) Assessment of alternative methods; reasons why alternatives were rejected: N/A

(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: None

(a) Necessity of proposed regulation if in conflict:

(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions:

(6) Any additional information or comments:

*Any cost impact has been shown in the implementing regulations for that particular program or service element.

Tiering:

Was tiering applied? No. Not applicable for public welfare regulations

CABINET FOR HUMAN RESOURCES Department for Social Insurance Division of Management and Development (Proposed Amendment)

904 KAR 2:150. Incorporation by reference of materials relating to the Aid to Families with Dependent Children Program.

RELATES TO: KRS 194.030(6), 205.200, 205.220, 205.231

PURSUANT TO: KRS 194.050

NECESSITY AND FUNCTION: The Cabinet for Human Resources has responsibility under the provisions of KRS Chapter 205 to administer public assistance programs under Title IV-A of the Social Security Act, namely Aid to Families with Dependent Children, herein referred to as AFDC. This regulation incorporates into regulatory form, by reference, materials used by the cabinet in the implementation of the AFDC program.

Section 1. Incorporation by Reference. The cabinet shall incorporate by reference materials used in the implementation of the Aid to Families with Dependent Children Program, subject to the provisions contained in 904 KAR 2:140, Section 1, Supplementary policies for programs administered by the Department for Social Insurance.

Section 2. Listing of Incorporated Materials. The following listed materials are hereby incorporated by reference, effective on the date shown:

(1) Federal regulations at 45 CFR Parts 200-299, which set forth the federal requirements and guidelines for the administration of the Aid to Families with

Dependent Children Program, effective January 1, 1985 [October 1, 1984]; and

(2) Federal action transmittals, which provide operating instructions, procedural detail and technical clarification for use by the department's staff in administering the Aid to Families with Dependent Children Program, as follows: SSA-AT-77-44, 78-13, 78-14, 78-16, 78-21, 78-27, 78-28, 78-38, 79-2, 79-4, 79-5, 79-7, 79-11, 79-14, 79-18, 79-22, 79-26, 79-29, 79-31, 79-32, 79-33, 79-35, 79-42, 79-44, 80-2, 80-3, 80-9, 80-11, 80-19, 80-22, 80-24, 80-29, 80-30, 80-36, 80-38, 80-42, 80-44, 80-45, 80-50, 81-2, 81-7, 81-8, 81-10, 81-11, 81-12, 81-15, 81-16, 81-17, 81-18, 81-23, 81-29, 81-31, 81-33, 81-34, 81-35, 81-36, 81-37, 82-1, 82-5, 82-6, 82-9, 82-11, 82-13, 82-15, 82-16, 82-17, 82-18, 82-19, 82-20, 82-28, 82-33, 82-34, 83-6, 83-7, 83-10, 83-11, 83-13, 83-14, 83-17, 83-18, 83-21, 83-22, 83-23, 83-25, 83-27, 84-2, 84-3, 84-5, 84-6, 84-7, 84-8, 84-9, 84-13, [and] 84-16, and 84-25, effective January 1, 1985 [October 1, 1984].

Section 3. All documents incorporated by reference herein may be reviewed during regular working hours in the Division of Management and Development, Department for Social Insurance, 275 East Main Street, Frankfort, Kentucky.

JACK F. WADDELL, Commissioner

E. AUSTIN, JR., Secretary

APPROVED BY AGENCY: January 10, 1985

FILED WITH LRC: January 15, 1985 at 12 noon

PUBLIC HEARING SCHEDULED: A public hearing on this regulation has been scheduled for February 21, 1985 at 9 a.m. in the Department for Health Services Auditorium, 275 East Main Street, Frankfort, Kentucky. However, this hearing will be cancelled unless interested persons notify the following office in writing by February 16, 1985 of their desire to appear and testify at the hearing: R. Hughes Walker, General Counsel, Cabinet for Human Resources, 275 East Main Street, 4-West, Frankfort, Kentucky 40621.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Randall Hancock

(1) Type and number of entities affected:

(a) Direct and indirect costs or savings to those affected: None

1. First year:

2. Continuing costs or savings:

3. Additional factors increasing or decreasing costs (note any effects upon competition):

(b) Reporting and paperwork requirements: None

(2) Effects on the promulgating administrative body: None

(a) Direct and indirect costs or savings:

1. First year:

2. Continuing costs or savings:

3. Additional factors increasing or decreasing costs:

(b) Reporting and paperwork requirements:

(3) Assessment of anticipated effect on state and local revenues: None

(4) Assessment of alternative methods; reasons why alternatives were rejected: N/A

(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: None

(a) Necessity of proposed regulation if in conflict:

(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions:

(6) Any additional information or comments: Any cost impact has been shown on the implementing program regulation.

Tiering:

Was tiering applied? No. Does not apply to Aid to Families with Dependent Children regulations.

CABINET FOR HUMAN RESOURCES Department for Social Insurance Division of Management and Development (Proposed Amendment)

904 KAR 2:170. Incorporation by reference of materials relating to the Child Support Program.

RELATES TO: KRS 205.795

PURSUANT TO: KRS 194.050

NECESSITY AND FUNCTION: The Cabinet for Human Resources has responsibility for administering the Child Support Program in accordance with Title IV-D of the Social Security Act and KRS 205.710 to 205.800 and 205.992. This regulation incorporates into regulatory form, by reference, materials used by the cabinet in the implementation of the Child Support Program.

Section 1. Incorporation by Reference. The cabinet shall incorporate by reference materials used in the implementation of the Child Support Program, subject to the provisions contained in 904 KAR 2:140, Section 1, Supplementary Policies for Programs Administered by the Department for Social Insurance.

Section 2. Listing of Incorporated Materials. The following listed materials are hereby incorporated by reference, effective on the date shown:

(1) Federal child support regulations at 45 CFR Parts 300-399, which set forth the requirements and guidelines for the administration of the Child Support Program, effective October 1, 1984;

(2) Federal Office of Child Support Enforcement Action Transmittals, which provide federal program instructions for the implementation of the child support enforcement program in accordance with federal laws and regulations, as follows: OCSE-AT-75-5, 75-6, 76-1, 76-2, 76-5, 76-7, 76-8, 76-9, 76-14, 76-21, 76-22, 76-23, 77-3, 77-14, 78-2, 78-5, 78-6, 78-8, 78-16, 78-18, 79-2, 79-3, 79-6, 79-7, 79-8, 80-5, 80-9, 80-11, 80-17, 81-7, 81-12, 81-26, 82-17, 83-15, 83-18, and 84-05, effective October 1, 1984;

(3) Department for Social Insurance Child Support Manual of Procedures, which provides operational instructions and procedural detail for the implementation of the child support enforcement program, effective January 1, 1985 [October 1, 1984];

(4) Department for Social Insurance Child Support System Handbook, which provides systems and data processing instructions for the implementation of the child support enforcement program, effective May 16, 1984; and

(5) Department for Social Insurance Child Support Action Memorandums, which provide program clarifications, instructions, and

procedural detail for the implementation of the child support enforcement program, as follows: DCSE-AM-82-07, 82-36, 82-53, 83-16, 83-21, 83-29, 83-30, 83-31, 83-36, 83-38, 83-39, 83-48, 84-10, [84-11,] 84-16, 84-18, 84-19, 84-20, [84-22,] 84-29, 84-34, [and] 84-36, and 84-41, effective January 1, 1985 [October 1, 1984].

Section 3. All documents incorporated by reference herein may be reviewed during regular working hours in the Division of Management and Development, Department for Social Insurance, 275 East Main Street, Frankfort, Kentucky.

JACK F. WADDELL, Commissioner
E. AUSTIN, JR., Secretary

APPROVED BY AGENCY: January 10, 1985

FILED WITH LRC: January 15, 1985 at 12 noon

PUBLIC HEARING SCHEDULED: A public hearing on this regulation has been scheduled for February 21, 1985 at 9 a.m. in the Department for Health Services Auditorium, 275 East Main Street, Frankfort, Kentucky. However, this hearing will be cancelled unless interested persons notify the following office in writing by February 16, 1985 of their desire to appear and testify at the hearing: R. Hughes Walker, General Counsel, Cabinet for Human Resources, 275 East Main Street, 4 West, Frankfort, Kentucky 40621

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Roy Butler

(1) Type and number of entities affected: For the period of May 1983 - November 1984, 814 cases of unemployment insurance have been intercepted for the purposes of paying child support obligation.

(a) Direct and indirect costs or savings to those affected: None

1. First year:

2. Continuing costs or savings:

3. Additional factors increasing or decreasing costs (note any effects upon competition):

(b) Reporting and paperwork requirements: None

(2) Effects on the promulgating administrative body: Minimal

(a) Direct and indirect costs or savings: None

1. First year:

2. Continuing costs or savings:

3. Additional factors increasing or decreasing costs:

(b) Reporting and paperwork requirements: Minor revisions to reports and paperwork already incorporated.

(3) Assessment of anticipated effect on state and local revenues: None

(4) Assessment of alternative methods; reasons why alternatives were rejected: Not applicable

(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: None

(a) Necessity of proposed regulation if in conflict:

(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions:

(6) Any additional information or comments:

Tiering:

Was tiering applied? No. Not applicable for child support regulations.

CABINET FOR HUMAN RESOURCES Department for Social Insurance Division of Management and Development (Proposed Amendment)

904 KAR 3:045. Coupon issuance procedures.

RELATES TO: KRS 194.050

PURSUANT TO: KRS 194.050

NECESSITY AND FUNCTION: The Cabinet for Human Resources has responsibility to administer a Food Stamp Program as prescribed by the Food Stamp Act of 1977, as amended, and 7 CFR Part 270 through 280. KRS 194.050 provides that the secretary shall, by regulation, develop policies and operate programs concerned with the welfare of the citizens of the Commonwealth. This regulation sets forth coupon issuance procedures used by the cabinet in the administration of the Food Stamp Program.

Section 1. Basic Issuance Requirements. The cabinet is responsible for the timely and accurate issuance of coupons to eligible households. In issuing coupons the cabinet must insure that:

(1) Only certified households receive benefits;

(2) Coupons are accepted, stored, and protected after delivery to receiving points within the state;

(3) Program benefits are distributed in the correct amounts; and

(4) Coupon issuance and reconciliation activities are properly conducted in accordance with 7 CFR Part[s] 274[.5 and 274.6] and accurately reported to the Food and Nutrition Service.

Section 2. Issuance System. The cabinet shall choose one (1) of the following systems to issue coupons to eligible households:

(1) Direct delivery is a system wherein eligible households pick up and redeem their ATP card at a specified issuance center. Regular mail issuance shall be available to those households which are unable to get to their assigned issuance centers, as determined by the cabinet.

(2) Direct mail is a system wherein coupons are mailed, using at least first class mail, directly to the eligible household.

(3) Alternate issuance is a system used, in accordance with 7 CFR 274.3(c)(3), when circumstances exist which indicate a household may not receive their benefits through the normal issuance system.

(a) Local office pickup is a system whereby a household's benefits are mailed to the local office for the household to pick up.

(b) Certified mail is a system whereby benefits are sent via the postal system and must be signed for before they are obtained.

(c) As determined by the cabinet, other issuance systems may be utilized to ensure receipt of benefits by the eligible household.

Section 3. Issuance Cycles. (1) For ongoing cases the monthly coupon packet/ATP card is mailed to the household/issuance center over the first ten (10) to twenty (20) days of the issuance month, based on the last digit of the recipient's social security number.

(2) New approvals, reapprovals and current month recertifications shall have their coupon

packet/ATP card mailed to their home/issuance center within thirty (30) days after the date of application in accordance with 7 CFR 273.2(g)(2).

(a) Households eligible for expedited service shall have their coupon packet/ATP card mailed or made available for pick-up no later than the close of business on the fifth calendar day after the date of application.

(b) Residents of drug addiction/alcoholic treatment centers and group living arrangement facilities eligible for expedited service shall have their coupon packet/ATP card made available no later than seven (7) days after the date of application.

Section 4. Replacement Issuances. A total of only two (2) replacements of any kind shall be made during a six (6) month period, except as specified in subsection 4 of this section. Replacements will be issued in accordance with 7 CFR Parts 273.11(i) [(g)], 274.2(h) and 274.3(c) as follows:

(1) Non-receipt of coupons/ATP cards must be reported in the period of intended use. Replacements shall be issued no more than ten (10) days after report of non-delivery is received and shall be limited to two (2) times during a six (6) month period. If coupons/ATP cards were returned to central office, non-receipt did not occur and the limit stated above does not apply.

(2) Destruction, in an individual household disaster, of coupons/ATP cards after receipt must be reported within ten (10) days of the incident or within the period of intended use, whichever is earlier. Replacements shall be issued within ten (10) days of receipt of request and shall be limited to one (1) time during a six (6) month period. Where FNS has issued a disaster declaration and the household is eligible for emergency food stamp benefits the household shall not receive both the disaster allotment and a replacement allotment under this provision.

(3) Theft of ATP cards after receipt must be reported within ten (10) days of the incident or within the period of intended use, whichever is earlier. Replacements shall be issued within ten (10) days of receipt of request and shall be limited to one (1) time during a six (6) month period.

(4) Improperly manufactured or mutilated coupons shall be replaced with an amount equal to the affected coupons in accordance with 7 CFR Part 273.11(i) [(g)](5). There is no limit on the number of times this type of replacement may be made.

(5) Effective April 1, 1985, mutilated ATP cards which are identifiable as being for the current month, belonging to the household which requested the replacement, and which have not expired, shall be replaced provided the request for replacement was made during the period of intended use. Mutilated ATP cards which are not identifiable shall be considered as lost and not replaceable.

(6) [(5)] Food purchased with food stamps which is subsequently destroyed in an individual disaster, as well as in a natural disaster affecting more than one (1) household, which affects the participating household, may be eligible for replacement of the actual value of loss, not to exceed one (1) month's food stamp allotment. The disaster must be reported within

ten (10) days and verified. A replacement shall be issued or the opportunity to obtain a replacement given within ten (10) days of the reported loss and shall be limited to two (2) times during a six (6) month period. Where FNS has issued a disaster declaration and the household is eligible for emergency food stamp benefits the household shall not receive both the disaster allotment and a replacement allotment under this provision.

Section 5. Authorization-to-Participate Card. The ATP card is used in areas participating in a direct delivery system.

(1) The ATP card shall be valid for the entire month of issuance unless it is issued after the twenty-fifth (25th) day of the month. Those issued after that date are valid through the last day of the following month.

(2) The household shall be provided with a means of designating an emergency authorized representative who can transact the ATP card in their stead.

Section 6. Coupon Controls. Regardless of which issuance system is used, the cabinet shall:

(1) Establish a coupon inventory management system which insures that coupons are requisitioned and inventories are maintained in accordance with 7 CFR Parts 274.4(a)[1 and 2];

(2) Establish control and security procedures to safeguard coupons similar to those used to protect currency outlined in 7 CFR Part 274.4(b);

(3) Arrange for the ordering of coupons and the prompt verification and written acceptance of each coupon shipment in accordance with 7 CFR Part 274.4(c);

(4) Ensure that coupon issuers and bulk storage points promptly verify and acknowledge, in writing, the contents of each coupon shipment or coupon transfer delivered to them and shall be responsible for the custody, care, control and storage of coupons pursuant to 7 CFR Part 274.5;

(5) Maintain issuance records for a period of three (3) years from the month of origin as outlined in 7 CFR Part 274.7;

(6) Control all issuance documents which establish household eligibility while the documents are transferred and processed within the state agency in accordance with 7 CFR Part 274.7(b); and

(7) Provide security and control for all issuance accountability documents pursuant to 7 CFR Part 274.7(c).

JACK F. WADDELL, Commissioner

E. AUSTIN, JR., Secretary

APPROVED BY AGENCY: January 11, 1985

FILED WITH LRC: January 15, 1985 at 12 noon

PUBLIC HEARING SCHEDULED: A public hearing on this regulation has been scheduled for February 21, 1985 at 9 a.m. in the Department for Health Services Auditorium, 275 East Main Street, Frankfort, Kentucky. However, this hearing will be cancelled unless interested persons notify the following office in writing by February 16, 1985 of their desire to appear and testify at the hearing: R Hughes Walker, General Counsel, Cabinet for Human Resources, 275 East Main Street, 4 West, Frankfort, Kentucky 40621.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Roy Butler

(1) Type and number of entities affected: The changes in this regulation will apply only in the Direct Delivery counties (currently four) and will have a minimal impact on recipients.

(a) Direct and indirect costs or savings to those affected:

1. First year: None

2. Continuing costs or savings: None

3. Additional factors increasing or decreasing costs (note any effects upon competition): None

(b) Reporting and paperwork requirements: Minimal

(2) Effects on the promulgating administrative body: Minimal - this change merely incorporates federal material

(a) Direct and indirect costs or savings: None

1. First year: None

2. Continuing costs or savings: None

3. Additional factors increasing or decreasing costs: None

(b) Reporting and paperwork requirements: Minimal

(3) Assessment of anticipated effect on state and local revenues: No significant impact on state or local revenues.

(4) Assessment of alternative methods; reasons why alternatives were rejected: Federal requirements do not allow for alternatives, so none considered.

(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: None

(a) Necessity of proposed regulation if in conflict: N/A

(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions: N/A

(6) Any additional information or comments: None

Tiering:

Was tiering applied? No. Federal requirements must be applied uniformly, statewide; therefore tiering was not necessary/possible.

CABINET FOR HUMAN RESOURCES

Department for Social Insurance

Division of Management and Development

(Proposed Amendment)

904 KAR 3:090. Incorporation by reference of materials relating to the Food Stamp Program.

RELATES TO: KRS 194.030(6)

PURSUANT TO: KRS 194.050

NECESSITY AND FUNCTION: The Cabinet for Human Resources has responsibility to administer a Food Stamp Program as prescribed by the Food Stamp Act of 1977 as amended, and 7 CFR Parts 251-282. KRS 194.050 authorizes the Secretary, Cabinet for Human Resources, to issue regulations necessary for the operation of the cabinet's programs. This regulation incorporates into regulatory form, by reference, materials used by the cabinet in the implementation of the Food Stamp Program.

Section 1. Incorporation by Reference. The cabinet shall incorporate by reference materials used in the implementation of the Food Stamp

Program, subject to the provisions contained in 904 KAR 2:140, Section 1, Supplementary Policies for Programs Administered by the Department for Social Insurance.

Section 2. Listing of Incorporated Materials. The following materials are hereby incorporated by reference, effective on the date shown:

(1) Federal food stamp regulations at 7 CFR Parts 250, 251 and 271-282, which set forth the federal requirements and guidelines for the administration of the Food Stamp Program and federal food stamp general notices published through the Federal Register, effective January 1, 1985 [October 1, 1984];

(2) Department for Social Insurance Food Stamp Handbook, which provides operating instructions, procedural detail and technical clarification for use by the department's field staff in administering the Food Stamp Program, effective January 1, 1985 [October 1, 1984]; and

(3) Federal food stamp regional letters, which set forth federal clarification of federal food stamp regulations, as follows: 80-5, 80-5.1, 80-6, 80-7, 80-8, 80-9, 80-10, 80-11, 80-13, 80-15, 80-16, 80-17, 80-19, 80-21, 80-22.1, 80-23, 80-30, 80-31, 80-32, 80-33, 80-34, 80-36, 80-38, 80-39, 80-41.1, 80-42, 80-43, 80-44, 80-47, 80-48, 80-49, 80-50, 80-51, 80-52, 80-53, 80-54, 80-58, 80-58.1, 80-58.2, 80-59, 80-62, 80-67, 80-71, 80-72, 80-73, 80-76.1, 80-77, 80-78, 80-79, 80-80, 80-81, 80-82, 80-83, 80-85, 80-86, 80-87, 80-88, 80-89, 80-91, 80-92, 80-93, 80-96, 80-98, 80-99, 80-100, 80-101, 80-102, 80-103, 80-105, 80-106, 81-3, 81-3.1, 81-3.2, 81-4, 81-4.1, 81-4.2, 81-4.3, 81-5, 81-6, 81-8, 81-9, 81-10, 81-10.1, 81-10.2, 81-11, 81-12, 81-13, 81-14, 81-15, 81-16, 81-17, 81-18, 81-19, 81-20, 81-20.1, 81-20.2, 81-21, 81-22, 81-23, 81-24, 81-25, 81-26, 81-27, 81-28, 81-29, 81-30, 81-30.1, 81-33, 81-34, 81-34.1, 81-36, 81-37, 81-38, 81-39, 81-40, 81-41, 81-42, 81-43, 81-44, 81-45, 81-46, 81-46.1, 81-47, 81-48, 81-49, 81-50, 81-51, 81-52, 81-53, 81-54, 81-55, 81-57, 81-57.1, 81-58, 81-59, 81-60, 81-62, 81-64, 81-65, 81-66, 81-67, 81-68, 82-2, 82-3, 82-4, 82-5, 82-6, 82-7, 82-8, 82-9, 82-10, 82-11, 82-12, 82-13, 82-14, 82-15, 82-16, 82-17, 82-18, 82-18.1, 82-19, 82-20, 82-21, 82-23, 82-25, 82-25.1, 82-26, 82-27, 82-29, 82-29.1, 82-30, 82-31, 82-32, 82-35, 82-36, 82-37, 82-38, 82-39, 82-40, 83-1, 83-1.1, 83-1.2, 83-2, 83-2.1, 83-3, 83-4, 83-5, 83-6, 83-7, 83-9, 83-12, 83-14, 83-15, 83-17, 83-18, 83-19, 83-21, 83-22, 83-24, 83-25, 83-26, 83-27, 83-28, 83-30, 83-31, 83-33, 83-36, 84-1, 84-2, 84-3, 84-4, 84-5, 84-6, 84-7, 84-8, 84-9, 84-10, 84-11, 84-12, 84-13, 84-14, 84-15, 84-16, 84-17, 84-18, 84-19, 84-20, 84-21, 84-22, 84-23, 84-24, 84-26, 84-27, 84-28, 84-29, 84-30, 84-31, 84-32, 84-33, 84-34, 84-35, 84-36, 84-37, 84-38, 84-39, 84-40, 84-41, 84-42, 84-43, 84-45, 84-46, [and] 84-47, 84-48, and 84-49, effective January 1, 1985 [October 1, 1984].

(4) Federal Food and Nutrition Service South East Regional Office (SERO) regulations supplement which sets forth federal policy clearances of federal regulations specified in subsection (1) of this section, effective January 1, 1985.

Section 3. All documents incorporated by reference herein may be reviewed during regular working hours in the Division of Management and Development, Department for Social Insurance.

275 East Main Street, Frankfort, Kentucky.

JACK F. WADDELL, Commissioner

E. AUSTIN, JR., Secretary

APPROVED BY AGENCY: December 26, 1984

FILED WITH LRC: January 15, 1985 at 12 noon

PUBLIC HEARING SCHEDULED: A public hearing on this regulation has been scheduled for February 21, 1985 at 9 a.m. in the Department for Health Services Auditorium, 275 East Main Street, Frankfort, Kentucky. However, this hearing will be cancelled unless interested persons notify the following office in writing by February 16, 1985 of their desire to appear and testify at the hearing: R Hughes Walker, General Counsel, Cabinet for Human Resources, 275 East Main Street, 4 West, Frankfort, Kentucky 40621.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Roy Butler

(1) Type and number of entities affected: All households applying for or receiving food stamps.

(a) Direct and indirect costs or savings to those affected: Not significant

1. First year: Minimal

2. Continuing costs or savings: Unknown

3. Additional factors increasing or decreasing costs (note any effects upon competition): None

(b) Reporting and paperwork requirements: Minimal

(2) Effects on the promulgating administrative

body: These revisions will keep the state's practices in compliance with federal requirements.

(a) Direct and indirect costs or savings: Minimal

1. First year: Minimal

2. Continuing costs or savings: Unknown

3. Additional factors increasing or decreasing costs: Unknown

(b) Reporting and paperwork requirements: Insignificant

(3) Assessment of anticipated effect on state and local revenues: No significant impact on state or local revenues.

(4) Assessment of alternative methods; reasons why alternatives were rejected: Changes are in compliance with federal requirements.

(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: None

(a) Necessity of proposed regulation if in conflict: N/A

(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions: N/A

(6) Any additional information or comments: None

Tiering:

Was tiering applied? No. Not applicable to these changes as federal requirements mandate uniform statewide implementation/application of policies.

PROPOSED REGULATIONS RECEIVED THROUGH JANUARY 15, 1985

GENERAL GOVERNMENT CABINET Real Estate Commission

201 KAR 11:180. Promotion of out-of-state property, registration and prerequisites.

RELATES TO: KRS 324.142

PURSUANT TO: KRS Chapter 13A

NECESSITY AND FUNCTION: To set forth procedure and content of registration required for promotional activities of out-of-state property.

Section 1. Definitions. (1) Time-share: arrangement under which one may acquire, for a period of time, the right to use and occupy property, for a recurring block of time. For the purpose of this regulation, a time share may be:

(a) A time-share estate, wherein a freehold estate or an estate for years is conveyed;

(b) A vacation lease, wherein a buyer purchases the right to occupy a specific accommodation for a specified time period over a specified number of years;

(c) A vacation license or club membership, wherein a buyer acquires the right to occupy an undesignated unit at certain real property(ies) during a specific time each year for a specific number of years;

(d) Variations of the above that result in the acquisition of the right to use real property for a limited period of time in recurring intervals for a number of years.

(2) Promotional activities - every solicitation or attempt to bring about the sale, exchange, lease, assignment, license or award with regard to an interest in real estate.

Section 2. To obtain commission approval for engaging in promotional activities in the Commonwealth for property located outside of the Commonwealth, each applicant must file with the commission the documents set forth below:

(1) Registration form provided by the commission setting forth pertinent date pertaining to: legal description of property, name(s) of developers, owners and persons involved in promotional activities, type of offering, form of ownership of property, encumbrance(s) on property, current and anticipated improvements, taxes and assessments, facilities and services offered or to be offered in the future, and description of promotional activities to be conducted in Kentucky.

(2) If a corporation, submit a copy of the Articles of Incorporation with all amendments thereto and a current list of the names and addresses of officers and directors with their principal occupation at the current time; out-of-state corporations must also submit "certificate of authority" issued by the office of the Secretary of State of the Commonwealth of Kentucky.

(3) If a partnership or association, submit a copy of Articles of Partnership or other organizational documents.

(4) Consent to service of process, on form provided by the commission.

(5) Copies of all sales contracts, agreements, option forms, lease forms, and the prospectus currently used for the property.

(6) Consent forms provided by the commission for commission to inspect the real estate being promoted and to inspect and copy books and reports of the owner and/or developer at the

cost of the applicant, on forms provided by commission.

Section 3. Exemptions: The registration required under this regulation shall not apply to:

(1) The making of any offer or disposition of any out-of-state property;

(a) By an owner in a single or isolated transaction; or

(b) By any government or government agency; or

(c) By court order.

(2) Any applicant that has been granted an exemption by the Kentucky Real Estate Commission on the ground that their promotional activities involve property of a small amount or of such a limited character that the public interest and protection of purchasers is deemed unnecessary with regard to said offerings.

(3) Any applicant who has registered under the Federal Interstate Land Sales Full Disclosure Act shall be exempt from the registration requirements contained in paragraphs 2a-d of this subsection, upon the filing with the commission of a copy of an effective statement of record filed with the Secretary of Housing and Urban Development together with a filing fee of \$100.

Section 4. In addition to the registration requirements set forth above, sellers of time-share plans in Kentucky must verify, on a form provided by the commission.

(1) That each purchaser shall receive a fully completed copy of any contracts pertaining to the sale which includes the date of execution of contract, financial obligations of purchaser (including initial purchase price and any additional charges to which purchaser may be subject), estimated date of availability of accommodation or facility which is not completed at time of contract, and a description of the nature and duration of the time-share being sold.

(2) That each purchaser shall be informed orally at the time he or she signs a contract of the purchaser's right to rescission, which shall be substantially similar to that set forth in subsection (3) of this section.

(3) That all sales contracts utilized in the promotion and sale of said time-share plans shall include in underlined, bold face type of a minimum size of ten (10) points substantially the following statement: "You may cancel this contract without any penalty or obligation within three (3) business days from the above date. If you cancel, any payments made by you under the contract and any negotiable instrument executed by you will be returned within ten (10) business days following receipt by the seller of your cancellation notice, and any security interest arising out of the transaction will be cancelled. If you decide to cancel this contract, you must notify the seller in writing of your intent to cancel. Your notice of cancellation shall be effective upon the date sent and shall be sent to:

Name of seller at _____

Address of seller _____

NO PURCHASER SHOULD RELY UPON REPRESENTATIONS OTHER THAN THOSE INCLUDED IN THIS CONTRACT."

(4) That if no interest in real property is being conveyed, contracts shall also contain the following statements in underlined, bold face type of a minimum size of ten (10) points: "You

may also cancel this contract at any time after the accommodations or facilities are no longer available as provided in this contract."

Section 5. (1) Violation of any of the requirements of this regulation or failure to comply with the provision of the notice of cancellation by a licensee shall constitute a violation of KRS 324.160(1)(q) of this regulation.

(2) Violation of any of the requirements of this regulation or failure to comply with the provision of the notice of cancellation by an owner/developer shall result in revocation of approval, as required under KRS 324.142, and may be enforced by injunctive action under KRS 324.020(5).

Section 6. A filing fee of \$100 shall accompany all applications.

JAMES H. HUFF, Acting Chairman

APPROVED BY AGENCY: January 7, 1985

FILED WITH LRC: January 7, 1985 at 3 p.m.

PUBLIC HEARING SCHEDULED: A public hearing on this regulation will be held on February 25, 1985, 10 a.m. at the Offices of the Kentucky Real Estate Commission, 222 South First Street, Suite 300, Louisville, Kentucky 40202. Those interested in attending this hearing shall contact: Susan G. Stopher, Executive Director, Kentucky Real Estate Commission, 222 South First Street, Suite 300, Louisville, Kentucky 40202.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Susan Stopher

(1) Type and number of entities affected:

(a) Direct and indirect costs or savings to those affected:

1. First year: \$100 filing fee to the effected out-of-state companies wanting to do business in Kentucky.

2. Continuing costs or savings: No continuing costs; unless an inspection trip is warranted.

3. Additional factors increasing or decreasing costs (note any effects upon competition): No effect on competition. Kentucky is one of the few states not having a requirement of this type.

(b) Reporting and paperwork requirements: Initial filing requirement only.

(2) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings:

1. First year: Administrative or clerical costs covered by filing fee.

2. Continuing costs or savings: Archival filing.

3. Additional factors increasing or decreasing costs: None

(b) Reporting and paperwork requirements: Reporting by out-of-state companies.

(3) Assessment of anticipated effect on state and local revenues: None

(4) Assessment of alternative methods; reasons why alternatives were rejected: This is only available method; similar to other states with same statute.

(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: KRS 367.470

(a) Necessity of proposed regulation if in conflict: Duplication is minor. This regulation

(as well as KRS 324.142) is much broader than the Recreation and Retirement Land Sales Act. This regulation covers all out-of-state property promoted in Kentucky; KRS 367.470 applies only to recreational property that is not fully constructed.

(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions: Yes, there is no conflict and minimal overlap.

(6) Any additional information or comments:

Tiering:

Was tiering applied? No. N/A

LOCAL MANDATE IMPACT STATEMENT

SUBJECT/TITLE: Promotion of sales in Kentucky of out-of-state property

SPONSOR: Kentucky Real Estate Commission

NOTE SUMMARY

LOCAL GOVERNMENT MANDATE: No

TYPE OF MANDATE: N/A

LEVEL(S) OF IMPACT: N/A

BUDGET UNIT(S) IMPACT:

FISCAL SUMMARY: Revenues (+/-)

+Filing fee of \$100 per company.

Expenditures (+/-)

-Fee will cover administrative costs, i.e., staff review, secretarial time, phone calls, etc.

Net Effect

-0- None

MEASURE'S PURPOSE: To protect consumers when purchasing out-of-state property. Will provide consumer information and cooling off period.

PROVISION/MECHANICS: By filing, will insure that out-of-state companies use appropriate contract forms with consumer disclosure statements.

FISCAL EXPLANATION: Filing fee will underwrite costs.

TOURISM CABINET

Department of Fish and Wildlife Resources

301 KAR 1:160. Stocking procedures and fees for private waters.

RELATES TO: KRS 150.010, 150.025, 150.150

PURSUANT TO: KRS 13A.350, 150.025

NECESSITY AND FUNCTION: The commissioner, with the concurrence of the Fish and Wildlife Commission, finds it necessary to formalize stocking procedures and fees necessary to fund and justify the stocking of fish in private waters.

Section 1. Any owner of a pond or lake, upon submission of an application and a non-refundable ten (10) dollars stocking fee, may receive fish stocks for private waters provided one (1) of the following conditions is met:

(1) The pond or lake is newly impounded and contains no fish.

(2) The pond or lake has been drained and refilled or chemically renovated and contains no fish.

(3) The pond or lake has been checked by a district fishery biologist and recommended for remedial stocking.

Section 2. Species available for private waters include largemouth bass, bluegill, and

channel catfish. The pond or lake owner must stock largemouth bass and bluegill, the channel catfish are optional.

Section 3. Stocking applications may be obtained from any conservation officer and must be received by the department no later than October 1 of each year. The stocking cycle begins in late October with the delivery of bluegill and channel catfish. The cycle is then completed during May of the following year with the delivery of largemouth bass. Fish stocks are delivered to each county, with advance notice of time and place provided to each pond or lake owner. It is the responsibility of each pond or lake owner to pick up the boxed fish and place them in the designated waters following the stocking instructions which are printed on the outside of each box.

CARL E. KAYS, Commissioner

ROBERT C. WEBB, M.D., Chairman

G. WENDALL COMBS, Secretary

APPROVED BY AGENCY: January 15, 1985

FILED WITH LRC: January 15, 1985 at 11 a.m.

PUBLIC HEARING SCHEDULED: A public hearing on this regulation will be held on February 26, 1985 at 2 p.m. in the meeting room of the Arnold L. Mitchell Building, #1 Game Farm Road, Frankfort, Kentucky. Those interested in attending this hearing shall contact: Peter W. Pfeiffer, Director, Division of Fisheries, Department of Fish and Wildlife Resources, Arnold L. Mitchell Building, #1 Game Farm Road, Frankfort, Kentucky 40601.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Don McCormick

(1) Type and number of entities affected: 100,000 small lake & pond owners.

(a) Direct and indirect costs or savings to those affected:

1. First year: None

2. Continuing costs or savings: No change

3. Additional factors increasing or decreasing costs (note any effects upon competition): None

(b) Reporting and paperwork requirements: No additional paperwork required.

(2) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings:

1. First year: None

2. Continuing costs or savings: None

3. Additional factors increasing or decreasing costs:

(b) Reporting and paperwork requirements:

(3) Assessment of anticipated effect on state and local revenues: None

(4) Assessment of alternative methods; reasons why alternatives were rejected: Not available

(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: None

(a) Necessity of proposed regulation if in conflict:

(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions:

(6) Any additional information or comments: None

Tiering:

Was tiering applied? No. Not applicable

**REGIONAL INTEGRATED WASTE TREATMENT
AND DISPOSAL FACILITY SITING BOARD**

410 KAR 1:010. Application process.

RELATES TO: KRS 224.2201, 224.2203, 224.2207, 224.2209, 224.2211, 224.2213, 224.2215, 224.855, 224.864, 224.866

PURSUANT TO: 224.2205

NECESSITY AND FUNCTION: KRS 224.2205 requires the Regional Integrated Waste Treatment and Disposal Facility Siting Board to adopt regulations establishing a fee or schedule of fees for the cost of processing applications for certificates of environmental safety and public necessity and prescribing the manner in which the board shall process applications. This regulation establishes the process by which the board shall receive and review applications for certificates of environmental safety and public necessity.

Section 1. Applicability. This regulation applies to any person who requires a certificate of environmental safety and public necessity to construct or operate a regional integrated waste treatment and disposal demonstration facility as defined in KRS 224.2201.

Section 2. Application requirements. The application for a certificate of environmental safety and public necessity shall consist of the following:

(1) A copy of the complete permit application for a hazardous waste site or facility submitted to the Natural Resources and Environmental Protection Cabinet. The application must be accompanied by a copy of the notice of intent to issue a construction permit from the Natural Resources and Environmental Protection Cabinet. Where information requested in this section is already provided in the permit application, a notation should be included to that effect.

(2) A description of the waste material to be managed at the proposed facility including, but not limited to:

(a) A description of the types of materials that are anticipated to be received at the facility and the primary market area from which the materials will originate;

(b) A description of the anticipated transportation methods to be used including highway, rail, water and air; and

(c) A description of the anticipated route(s) including primary and secondary roads, by which waste is anticipated to be transported.

(3) A statement which demonstrates and documents each of the following:

(a) The facility will receive wastes from a region larger than the county boundaries within which it is proposed and from more than one (1) person.

(b) The facility will utilize multiple treatment and disposal methods including a secure landfill and a high technology incinerator.

(c) The facility will be designed to promote resource recovery and energy generation from hazardous waste.

(d) The facility will be designed to promote the use of state-of-the-art techniques for rendering waste non-hazardous and for disposing of waste in a manner that minimizes the risk to public health and long-term environmental

impacts.

(e) The facility will contain an industrial park component. Property contiguous to the facility must be reasonably available for its development or the site must be of sufficient size to accommodate new industrial and commercial concerns. Contracts, leases or other documentation must be submitted as proof of availability of land for an industrial park.

(f) Any grant, contract, agreement, sale of state property or other form of assistance to the facility provided by the Commonwealth in accordance with KRS 224.896.

(4) A statement of social and economic impacts to the affected community including, but not limited to:

(a) The population density on the site and within five-tenths (0.5) miles of the facility. This is to be determined by multiplying the average persons per household for the county(ies) within this five-tenths (0.5) mile zone, by the number of residential structures indicated on maps. In addition the applicant shall provide population data for the county(ies) using the latest U.S. Census Bureau projections; the percentage change from the previous census projection; an estimate of the county population for twenty (20) years into the future; and the percentage change from the current population and the distance to and population of any cities within ten (10) miles.

(b) The proximity to structures including airports, schools, hospitals, churches, commercial centers, nursing homes, prisons, other sensitive populated structures, and cemeteries.

(c) An identification of the proposed project's compatibility with local development plans and ordinances.

(d) An identification of lands designated for industrial use contiguous to the proposed facility and within the county. In addition, the applicant shall provide an assessment of the proposed facility's proximity to utilities.

(e) A statement of the availability of emergency services including an estimated response time for police, fire, ambulance and other necessary safety services.

(f) An assessment of the population within five-tenths (0.5) miles of the transportation route including the number of dwelling units, schools, hospitals and shopping centers. A transportation route is defined as the highway route(s) between the site entrance and rail yard, or dock facility, or primary interstate or limited access interchange(s) used by site-bound motor carriers to deliver wastes to the site. The applicant shall identify the length of the transportation route(s); any transportation restrictions such as weight restrictions or bridge height restrictions; accident rate of the transportation route(s); and the potential adverse impact on the adjacent population and transportation structure due to the nature and volume of waste traffic.

(g) An identification of lands dedicated in public trust including publicly owned lands within two (2) miles of the proposed facility and an assessment of the impact the proposed facility will have upon these lands. Publicly owned lands shall include the following facilities owned and maintained or formally designated for acquisition by agencies of the federal, state or local government (including

multi-county or multi-state agencies):

1. Wilderness or scenic areas;
2. Wildlife or bird sanctuaries;
3. Archaeological sites;
4. Game lands;
5. National, state or local parks, and recreation areas;
6. Historic sites and landmarks; and
7. Other natural areas.

(h) A comparison of public revenue to public expenditures associated with the facility explaining whether public revenues would be anticipated to be greater than or less than public expenditures and justification for the conclusions.

(i) An assessment of the proposed facility's impact on property values, including:

1. The effect on property values considering established trends of property values using historical data and the projected effect of the proposed facility on those established trends; and

2. The overall economic effect upon the community and adjoining areas considering new employment to be provided at the proposed facility, changes in the tax base, and the potential for industrial development.

(j) An assessment of existing alternatives to the technology of the proposed facility and a statement of justification for selection of the proposed technology.

(k) A statement of the resource recovery and energy generation benefits that may be available.

(l) An assessment of the direct economic benefits to the affected municipality(ies) and county(ies) including property taxes, gross tax potential, and employment opportunities, and potential community support services to be furnished by the applicant.

(m) An assessment of the proposed facility's impact on any state-owned commercial low-level nuclear waste disposal site.

(n) An assessment of the proposed facility's compatibility with the state hazardous waste management plan established under KRS 224.033(24).

(5) A statement of the environmental impacts to the area surrounding the proposed facility. In as much as the application for a hazardous waste facility permit submitted to the Natural Resources and Environmental Protection Cabinet may contain in part or whole the requirements of this subsection, the applicant may reference those applicable sections when submitting the application for a certificate of environmental safety and public necessity. However, the applicant shall submit such additional information as may be necessary to fulfill the requirements of this subsection to include information concerning:

- (a) The geology of the proposed site including:
 1. Rock type.
 2. Rock attitude (i.e., degree of inclination).
 3. Macro and micro structures.
 4. Fractures and cleavage.
 5. Weathering properties including resistance to and reactions with water, acid solutions or alkaline solutions, and freeze and thaw action.
 6. Mineralogy.

(b) Groundwater at the proposed site including:

1. An assessment of potential flow through karst channels.

2. A characterization of the uppermost aquifers and aquitards at the proposed facility

including:

- a. The extent and relative boundaries;
- b. The properties such as porosity, fracturing, and composition;
- c. The ion exchange capacity;
- d. The hydraulic conductivity;
- e. The hydraulic gradient;
- f. The hydrodynamic dispersion properties;
- g. The distance from the surface;
- h. The direction of groundwater flow;
- i. The velocity of groundwater flow;
- j. The quality and quantity of the aquifer;
- k. A characterization of recharge and discharge areas; and

1. The potentiometric surface.

3. A characterization of current and potential water use hydraulically downgradient from the proposed facility including the current or potential use as a drinking water source, and an inventory of wells and springs within one (1) mile of the proposed site.

4. A characterization of the unsaturated zone including:

- a. The porosity of the soil and geologic formations overlying the aquifer(s);
- b. The hydraulic conductivity;
- c. The hydrodynamic dispersion properties of pollutants; and
- d. The soil cation exchange capacity.

(c) Surface water at the proposed site including:

1. An assessment of the potential for a 100-year flood event.

2. The stream flow data including minimum and maximum annual volumes.

3. The water quality.

4. The stream classification (i.e. perennial, intermittent, ephemeral).

5. The stream order.

6. The drainage basin area of the proposed facility both upstream and downstream.

7. The ground slope.

8. The standing water in lakes, ponds and swamps.

9. The relationship of surface water to karst features.

10. The official stream designation as:

- a. Domestic water supply;
- b. Primary contact;
- c. Secondary contact;
- d. Outstanding resource water;
- e. Warm water aquatic habitat; or
- f. Cold water aquatic habitat.

(d) The potential for ground failure at the proposed site due to:

1. Karst failure (i.e., sinkhole collapse).
2. Landslide.
3. Mine subsidence.
4. Seismic activity.
5. Streambank failure.

(e) The characteristic of the soil and other unconsolidated deposits which overlie bedrock at the proposed site including:

1. The soil classification including:
 - a. Depth to bedrock;
 - b. Texture and particle size;
 - c. Soil structure;
 - d. Soil consistency;
 - e. Mineralogy; and
 - f. Soil pH.

2. The physical characteristics including:

- a. Porosity and permeability;
- b. Sorption capacity;
- c. Thickness in each horizon;

- d. Moisture/density relationship (i.e., compaction capability); and
- e. Ion exchange capacity.
- (f) The mineral resources at the proposed site including:

- 1. Known or potential mineral deposits.
- 2. Mined-out areas both at the surface and underground.
- 3. Known or potential areas of oil and gas production or occurrence.
- 4. Identification of ownership of mineral rights.

(6) A statement regarding the experience and qualifications of the applicant. Experiences to be listed include ownership or operational responsibilities for any other hazardous waste storage, treatment or disposal facility. A list of personnel positions at the proposed facility, listing job responsibilities and minimal qualifications for each position identified, shall be provided.

Section 3. Application Submittal. (1) Application format. The applicant shall submit a complete application to the board which shall be in eight and one-half (8 1/2) inches by eleven (11) inches format and in the sequence identified in Section 2 of this regulation. All loose pages shall be bound in a folder, binder or similar device.

(2) Copies of the application. Twelve (12) complete copies of the application shall be submitted to the board. An additional copy shall be provided for the public to review. This copy shall be placed in a public location within the county where the facility is proposed to be located.

(3) Deadline for submittal. Within ninety (90) days of the date that the Natural Resources and Environmental Protection Cabinet notifies the applicant of its intent to issue a construction permit, the applicant must submit an application for a certificate of environmental safety and public necessity. The board may extend this deadline upon receiving written request and justification for the extension from the applicant.

Section 4. Application Process. (1) Public notice. Within ten (10) days of receipt of a complete application, the board shall publish a notice in a local newspaper within the county where the proposed facility is to be located and in all counties contiguous to the host county in conformance with KRS Chapter 424. This notice shall contain at a minimum the following information:

- (a) The location of the proposed facility.
- (b) The type of activity to be conducted at the proposed site.
- (c) The name of the owners(s) of the proposed facility.
- (d) The location within the county of an application available for public review.
- (e) The location, date, and time of a public hearing on the proposed facility.
- (f) The name(s) and address(es) of individuals to contact for additional information.

(2) Notice to the county judge/executive. Within ten (10) days of receipt of a complete application, the board shall notify the county judge/executive of the county in which the facility is proposed to be located of the application's receipt and the date on which the

public hearing will be held.

(3) Public hearing. The board shall schedule a public hearing no less than thirty (30) days and no more than forty-five (45) days after publication of the notice described in subsection (1) of this section unless the applicant requests a delay. The public hearing shall be held in the county in which the facility is proposed to be located.

(4) Certificate of environmental safety and public necessity.

(a) The board shall make a decision whether to issue or deny the application within ninety (90) days of the public hearing. The board may extend the ninety (90) day period for an additional thirty (30) days with written notification to the applicant. If any additional complete applications for a certificate are received by the board during this review time, an additional ninety (90) day period will be automatically provided from the time that subsequent applications are received, to allow the board time to evaluate each of the applications against the state's hazardous waste management needs, and to issue the certificate to that facility which is most consistent with the purposes and goals of KRS 224.2201 to 224.2215, 224.896, 224.987. In making the decision, the board shall consider:

- 1. The impact of the proposed facility on community perceptions.
- 2. The psychic costs of the proposed facility to the community.
- 3. The proximity of the proposed facility to existing and potential industrial locations within the state.
- 4. Whether the location of the proposed facility minimizes the transportation distances between major generators and the proposed facility.
- 5. The necessity of the proposed facility in relation to the waste generated within the state.
- 6. Whether the proposed facility minimizes the risk to public health and safety.
- 7. Whether the proposed facility minimizes the risks to the environment.

(b) Denial of a certificate. If the decision of the board is to deny the application, the applicant shall be sent, by certified mail return receipt requested, a notice of denial and a statement explaining the basis for the decision. The board will publish a notice in a local newspaper within the county where the proposed facility was to be located and in all counties contiguous to the host county stating that the application has been denied. The board shall immediately send written notice to the Natural Resources and Environmental Protection Cabinet of the decision to deny the application for a certificate.

(c) Issuance of a certificate.

1. If the preliminary decision is to issue a certificate of environmental safety and public necessity, the board shall notify the chairperson(s) of the interim joint committees of the Legislative Research Commission with jurisdiction in hazardous waste management or, if the General Assembly is in session, the chairperson(s) of the House and Senate standing committees with jurisdiction in hazardous waste management. The notification shall state the board's intent to issue a certificate of environmental safety and public necessity. Within thirty (30) days of the receipt of this

notice, the chairperson(s) of the appropriate joint committee shall call a meeting of the committee to hear the findings of the board. Upon the close of this meeting, the board may choose to deny the application in accordance with paragraph (b) of this subsection or issue the certificate as specified in subparagraph 2 of this paragraph.

2. After presenting its findings to the appropriate joint committee, if the decision of the board is to issue a certificate, the board shall prepare a certificate of environmental safety and public necessity to be signed by the chairperson of the board. The board shall publish a notice in a local newspaper within the county where the proposed facility will be located and in all counties contiguous to the host county stating that a certificate has been issued and identifying appeals procedures. The board shall immediately send written notice of the issuance of a certificate to the Natural Resources and Environmental Protection Cabinet.

Section 5. Revocation or Suspension of Certificates. (1) The board may revoke or suspend a certificate of environmental safety and public necessity subject to such conditions as it deems appropriate consistent with KRS 224.2207 including, where appropriate provision for mitigation of local impacts. In addition, the board may revoke or suspend a certificate of environmental safety and public necessity for:

(a) Violations of permit conditions resulting in an adjudicated violation.

(b) Failure to commence construction of the facility as described within the certificate within one (1) year of the issuance of a certificate of environmental safety and public necessity.

(c) Failure to accept waste from more than one (1) county.

(d) Failure to provide access to the energy produced from the waste.

(e) Violations of conditions or mitigative requirements as required by the certificate of environmental safety and public necessity.

(f) Failure to submit all relevant facts or submittal of incorrect information on the application.

(2) Upon revocation of a certificate, the facility shall close in accordance with permit conditions unless the operation of the facility is modified so that it does not fall within the definition of a regional integrated waste treatment and disposal demonstration facility, in which case it shall be subject to the provisions of KRS 224.855(5).

Section 6. Appeals. Any person aggrieved by the decision of the board to issue or deny a certificate of environmental safety and public necessity, may take an appeal to the Franklin Circuit Court. The appeal must be made within thirty (30) days of the board's decision and shall be in accordance with KRS 224.2207(5).

JOHN BERRY, Chairperson

APPROVED BY AGENCY: January 11, 1985

FILED WITH LRC: January 15, 1985 at 9 a.m.

PUBLIC HEARING SCHEDULED: A public hearing has been scheduled in the Capital Plaza Tower Auditorium, Frankfort, Kentucky on February 27, 1985 at 1 p.m. EST. Persons interested in attending this public hearing shall contact:

John Berry, Chairperson of the Siting Board, c/o Commerce Cabinet, 24th Floor, Capital Plaza Tower, Frankfort, Kentucky 40601. The written comment period will close at 4:30 p.m. on February 27, 1985.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: John Berry, Chairman of the Siting Board

(1) Type and number of entities affected: This regulation will affect all waste treatment and disposal facilities which apply for a Certificate of Environmental Safety and Public Necessity. However, the Kentucky General Assembly authorized the Siting Board to issue only one Certificate of Environmental Safety and Public Necessity to construct and operate a regional integrated waste treatment and disposal demonstration facility.

(a) Direct and indirect costs or savings to those affected:

1. First year: Although an infinite number of facilities could apply, it is likely that only one facility will actually apply for a Certificate of Environmental Safety and Public Necessity. The only costs to be incurred under this proposed regulation will occur during the year when an application is submitted for certification. There are currently no known persons expressing their intent to apply for certification. The cost to an applicant will depend in large degree on the size and the level of public concern for the proposed facility. Experience in hazardous waste siting is limited. Although a number of states have state siting boards, only a few have been involved in the siting of a hazardous waste treatment or disposal facility. State siting boards that have been active include ones in Michigan and Ohio. In Michigan, the state Siting Board granted a permit to the BFC Chemical Corporation in 1981 to construct a small, 10-gallon-per-hour incinerator. BFC Chemical estimates their cost to conduct background studies, submit an application, and attend public hearings to be \$150,000. The permitting process required 24-30 work months of effort over a two-year period (personal conversation with Robert Atwell, BFC Chemical). By comparison, Waste Technologies Industry (WTI) was permitted by the Ohio Siting Board in 1984, to construct a \$90 million waste incinerator, treatment and resource recovery facility in East Liverpool. The facility has a design treatment capacity of over eleven (11) tons per hour. The permitting process, including other state and federal hazardous waste permits, cost WTI over \$5 million over a three (3) year period (personal conversation with Vicki Heidl, WTI). In both cases the permitting costs included hazardous waste permits required under state and federal (Resource Conservation and Recovery Act) statutes. The Economics Branch of the U.S. Environmental Protection Agency, Office of Solid Waste, estimates that the cost of preparing an application for a hazardous waste management facility permit to be from \$100,000 to \$1,000,000 (personal communication with Cliff Rothenstein, U.S. Environmental Protection Agency).

Much of the data required under this proposed regulation is duplicative of existing state and federal hazardous waste regulations. Additional requirements on an applicant include: a

description of the project's socio-economic impacts; additional hydrogeologic data; a risk assessment along transportation corridors; and, preparation of public notices and participation in public hearings. Since the regional facility must utilize multiple treatment and disposal methods including a secure landfill and a high technology incinerator, it is anticipated that the project size will be large. The cost of complying with this regulation is therefore estimated to be in excess of \$200,000 and will require a minimum of 270 days for a company to obtain a permit to construct an integrated hazardous waste treatment and disposal facility.

Under Kentucky statutes (KRS 224.855(5)), a state permit for any hazardous waste disposal facility may not be granted without approval from the local government. A person proposing to construct a hazardous waste disposal facility who may be unable to obtain local approval may realize substantial savings by applying for and obtaining a certificate from the Siting Board. Kentucky generates approximately 8 million tons of hazardous waste annually. The lack of any commercial land disposal facility within the state necessitates the transportation of over 84,500 tons of hazardous waste to adjacent states for treatment and disposal at a cost of approximately \$15-\$20 million. The location of a regional integrated waste treatment and disposal facility within Kentucky could save hazardous waste generators within the state \$1-\$2 million in transportation costs and would increase state tax revenues while providing additional jobs within the state.

2. Continuing costs or savings: None

3. Additional factors increasing or decreasing costs (note any effects upon competition): The cost of preparing an application and receiving a certificate of environmental safety and public necessity will increase proportionately with the size and complexity of the proposed facility. In cases where public concerns are especially high, the applicant may be required to secure the services of attorneys, engineers, public relation specialists, toxicologists, hydrogeologists and other technical experts to demonstrate that the proposed facility will not pose an unacceptable risk to public health or the environment. Costs could as much as double in such cases.

(b) Reporting and paperwork requirements: The applicant will be required to submit a comprehensive report describing the proposed facility, the waste material to be managed, the social and economic impacts, environmental aspects, mitigation measures to alleviate problems, and a description of alternatives to the proposed project.

(2) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings:

1. First year: The Regional Integrated Waste Treatment and Disposal Facility Siting Board has a maximum of 180 days to make a decision on whether or not to issue a certificate. The board is composed of twelve (12) citizens (including three temporary members from the local community where a facility is proposing to locate) who have been appointed to serve on a voluntary basis. It is anticipated that the board will utilize staff from the Commerce and Natural Resources and Environmental Protection Cabinets during application reviews. The board may also

use part or all of a \$50,000 application fee to hire technical experts, conduct additional studies, travel, and to conduct public hearings.

2. Continuing costs or savings: None

3. Additional factors increasing or decreasing costs: None

(b) Reporting and paperwork requirements: The Siting Board must notify the legislative committee with jurisdiction in hazardous waste prior to issuing a certificate and publish a public notice afterwards. If a certificate is denied, the Siting Board must provide a written reason for the denial and publish a public notice stating that the application has been denied.

(3) Assessment of anticipated effect on state and local revenues: No significant impact (see indirect costs and savings on paragraph (1)(a) above).

(4) Assessment of alternative methods; reasons why alternatives were rejected: Specific application requirements were considered individually, however, minimal consideration was given to alternatives since most of the application process is based on statutory requirements.

(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: The requirements in this regulation overlap with those in 401 KAR Chapter 38, Hazardous Waste Permitting Process. To minimize the burden on the applicant the proposed regulation states that "where information requested . . . is already provided in the (hazardous waste) permit application, a notation should be included to that effect."

(a) Necessity of proposed regulation if in conflict: Not applicable

(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions: Not applicable

(6) Any additional information or comments: None

Tiering:

Was tiering applied? Yes. The regulation applies only to facilities which apply for a Certificate of Environmental Safety and Public Necessity.

REGIONAL INTEGRATED WASTE TREATMENT AND DISPOSAL FACILITY SITING BOARD

410 KAR 1:020. Fees.

RELATES TO: KRS 224.2201, 224.2203, 224.2207, 224.2209, 224.2211, 224.2213, 224.2215, 224.855, 224.864, 224.866

PURSUANT TO: 224.2205

NECESSITY AND FUNCTION: KRS 224.2205 requires the Regional Integrated Waste Treatment and Disposal Facility Siting Board to adopt regulations establishing a fee or schedule of fees for the cost of processing applications for certificates of environmental safety and public necessity and prescribing the manner in which the board shall process applications. This regulation establishes the fees for processing applications for certificates of environmental safety and public necessity.

Section 1. Applicability. This regulation applies to any person requesting a certificate

of environmental safety and public necessity.

Section 2. Fees. (1) Application processing fee. All applications for a certificate of environmental safety and public necessity shall be accompanied by a filing fee in an amount equal to \$50,000 which shall be deposited in an interest bearing account to be used by the board to review and process the application. Costs incurred by the board may include, but are not limited to: conducting public hearings; publishing public notices; conducting surveys; hiring consultants; traveling; and conducting research needed to render a decision regarding the application.

(2) The applicant is entitled to an accounting of monies expended and to a refund of that portion of the filing fee not expended by the board in carrying out its responsibilities under KRS Chapter 224 and the regulations issued pursuant thereto.

JOHN BERRY, Chairperson

APPROVED BY AGENCY: January 11, 1985

FILED WITH LRC: January 15, 1985 at 9 a.m.

PUBLIC HEARING SCHEDULED: A public hearing has been scheduled in the Capital Plaza Tower Auditorium, Frankfort, Kentucky on February 27, 1985 at 1 p.m. EST. Persons interested in attending this public hearing shall contact: John Berry, Chairperson of the Siting Board, c/o Commerce Cabinet, 24th Floor, Capital Plaza Tower, Frankfort, Kentucky 40601. The written comment period will close at 4:30 p.m. on February 27, 1985.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: John Berry, Chairman of the Siting Board

(1) Type and number of entities affected: This regulation will affect all waste treatment and disposal facilities which apply for a Certificate of Environmental Safety and Public Necessity.

(a) Direct and indirect costs or savings to those affected: The application processing fee is equal to the cost to the Siting Board for reviewing an application for a regional integrated waste treatment and disposal facility up to \$50,000.

1. First year: The application processing fee is equal to the cost to the Siting Board for reviewing an application for a regional integrated waste treatment and disposal facility \$50,000.

2. Continuing costs or savings: None

3. Additional factors increasing or decreasing costs (note any effects upon competition): None

(b) Reporting and paperwork requirements: None

(2) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings:

1. First year: None

2. Continuing costs or savings: None

3. Additional factors increasing or decreasing costs: None

(b) Reporting and paperwork requirements: The Siting Board must account for all of the expenses it incurred during review of the certification application and refund that portion of the filing fee not expended.

(3) Assessment of anticipated effect on state and local revenues: There will be no effect

since the Board's expenses are paid through the application fee.

(4) Assessment of alternative methods; reasons why alternatives were rejected: A flat fee schedule was considered, however the use of an escrow deposit provides greater flexibility to the Siting Board in conducting any necessary studies or review to reach a decision regarding the application. Since the fee is placed in an interest bearing account and unused portions are returned to the applicant, the fiscal impact on the applicant is minimized to the greatest extent possible.

(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: None

(a) Necessity of proposed regulation if in conflict: Not applicable

(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions: Not applicable

(6) Any additional information or comments: none

Tiering:

Was tiering applied? Yes. The regulation will apply only to facilities which qualify for consideration as a "Regional Integrated Waste Treatment and Disposal Demonstration Facility."

TRANSPORTATION CABINET Department of Highways

603 KAR 5:061. Intrastate toll bridges and toll ferries.

RELATES TO: KRS 280.010 to 280.130

PURSUANT TO: KRS 280.080

NECESSITY AND FUNCTION: KRS 280.080 requires the Department of Highways to make such regulations for the control of toll bridges or toll ferries, as defined in KRS 280.010, as the department deems necessary.

Section 1. Application for Certificate of Convenience and Necessity. (1) Any bridge company or ferry company, except any which can prove to the department that it holds a perpetual and irrevocable franchise for such operation, who seeks to operate a toll bridge or toll ferry connected to the state primary road system shall make application at the highway district office of the highway district in which the toll bridge or toll ferry is located for the certificate of convenience and necessity required by KRS 280.020. Application forms are available in all highway district offices and from the Transportation Cabinet, Division of Traffic, Frankfort, Kentucky 40622.

(2) The application form must be completed in its entirety and contain at a minimum, the information required by KRS 280.030.

(3) Upon receipt of the application, the department shall fix a date for hearing the application and shall immediately notify the applicant of the date, time and location of the hearing.

(4) The applicant shall present proof as to the applicant's general ability, experience, organization and equipment. The applicant shall, at the hearing, submit any additional proof that the public convenience and necessity require the applicant's toll bridge or toll ferry operation.

(5) Department representatives may inspect the applicant's equipment prior to the issuance of a certificate of public convenience and necessity.

(6) The department shall issue a decision on any application within thirty (30) days of the hearing.

(7) The applicant may appeal the decision of the department in accordance with KRS 280.110.

Section 2. Annual Report. On forms furnished by the department, every toll bridge and toll ferry company shall submit an annual report of the previous year's operation on or before March 1 of each year to the chief district engineer of the highway district in which the toll bridge or toll ferry is located. The company president, secretary, treasurer, superintendent or manager shall under oath make and sign a statement on the annual report that the information contained in the annual report is correct. The report shall include the information required in KRS 280.030 and also the following:

(1) The number, by class, of vehicles accommodated during the report year and the toll schedule for each class of vehicle;

(2) For toll ferries, a description of the barges and power units in use during the year;

(3) The schedule of hours of service and trips made; and

(4) Any additional relevant information required by the department.

Section 3. Toll Rates. (1) No change in toll rates charged may be made by a toll bridge or toll ferry company without the approval of the department.

(2) To request a change in toll rates, the company must apply, in writing, to the department's chief district engineer of the highway district in which the toll bridge or toll ferry is located. The request shall include the reasons for the requested change and the toll bridge or toll ferry company shall make available to the department's all financial reports of the company.

(3) The company shall give notice to the public of the filing of the rate change request by publication of the proposed rate schedule and information for filing a formal protest of the proposed rate change with the department in accordance with the requirements of KRS Chapter 424.

(4) If a formal protest is filed within two (2) weeks of the final publication of the notice or the department has reservations about the proposed rate increase, the department's chief district engineer shall fix a date between thirty (30) and forty-five (45) days of final publication of the notice for hearing the application for a toll rate change.

(5) The department shall give notice of the hearing by means of publication of a notice in accordance with the requirements of KRS Chapter 424.

(6) The department shall issue a decision on any request for a toll rate change within thirty (30) days of the hearing or within thirty (30) days of final publication of the notice.

(7) The company may appeal the decision of the department in accordance with KRS 280.110.

Section 4. Operation of a Toll Ferry or Toll Bridge. (1) A copy of the irrevocable franchise or the certificate of public convenience and

necessity shall be posted on all ferry boats and in the toll booths of all bridges affected by this administrative regulation.

(2) A toll bridge or toll ferry company holding a certificate of public convenience and necessity shall not operate over any bridge or stream other than those specified in the certificate.

(3) Hours of operation, toll rates, services to be performed, and the safety of operation as set forth by the department in the certificate of public convenience and necessity shall be strictly complied with by all certificate holders.

(4) If a toll bridge or toll ferry company is found, during an inspection, to be in non-compliance with any regulation, statute or order, it shall have ten (10) days, following the inspection to correct the non-compliance. If at the end of the ten (10) days the company is still in non-compliance the department shall fix a hearing date on the non-compliance. The hearing date will be upon ten (10) days written notice to the toll bridge or toll ferry company.

(5) The department's determination shall be issued within thirty (30) days of the hearing.

Section 5. Safety Devices. (1) Safety devices as required by KRS 280.120 and 280.130 shall be provided and properly maintained by each toll ferry company. In addition, the department may require any toll bridge or toll ferry company to place and maintain other traffic control devices such as, but not limited to, signs, signals, lighting, pavement markings, and barricades that may be necessary for the safety of the motoring public. All such devices required shall conform to the specifications set forth in 603 KAR 5:050.

(2) Each toll ferry company shall provide and maintain in reasonable condition the number of life preservers or floats, fire extinguishers, axes, and yawls or life boats as required by the U.S. Coast Guard in their regulations governing the operation of ferries.

Section 6. The administrative regulation of the department as herein outlined is intended to supplement the specific requirements contained in KRS Chapter 280 and regulations of appropriate agencies of the federal government. In all cases where the department's regulations conflict with the regulations of such agencies, or where the regulations of other governing agencies are more stringent than those of the department, the regulations of the other agency shall prevail.

Section 7. 603 KAR 5:060, Intrastate toll ferries and bridges, is hereby repealed.

STEPHEN REEDER, Commissioner

APPROVED BY AGENCY: January 15, 1985

FILED WITH LRC: January 15, 1985 at 11 a.m.

PUBLIC HEARING SCHEDULED: A public comment hearing will be held on this proposed administrative regulation on February 26, 1985 at 11a.m. local prevailing time in the 4th floor hearing room of the State Office Building, corner of High and Clinton Streets, Frankfort, Kentucky. Any person who intends to attend this hearing must in writing no later than February 21, 1985 so notify: Larry E. Moore, Assistant to the Secretary, Transportation Cabinet, State Office Building, Frankfort, Kentucky 40622.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Larry E. Moore

(1) Type and number of entities affected: Three toll ferries.

(a) Direct and indirect costs or savings to those affected: None

1. First year: None

2. Continuing costs or savings: None

3. Additional factors increasing or decreasing costs (note any effects upon competition): None

(b) Reporting and paperwork requirements: None beyond statute requirements.

(2) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings: None

1. First year: None

2. Continuing costs or savings: None

3. Additional factors increasing or decreasing costs: None

(b) Reporting and paperwork requirements: None beyond statute requirements.

(3) Assessment of anticipated effect on state and local revenues: None

(4) Assessment of alternative methods; reasons why alternatives were rejected: Additional procedures for implementation of statutory requirements are needed.

(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: None known.

(a) Necessity of proposed regulation if in conflict: N/A

(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions: N/A

(6) Any additional information or comments: No.

Tiering:

Was tiering applied? No. With only three intrastate ferries still operational, they should all be treated alike.

TRANSPORTATION CABINET
Department of Highways

603 KAR 5:120. Access control of highways.

RELATES TO: KRS 175.450, 176.050, 177.106, 177.230, 177.240, 177.410, 177.440

PURSUANT TO: KRS 174.080, 176.050, 177.230, 177.240, 177.410

NECESSITY AND FUNCTION: The need exists to define, design, construct, and maintain highways whereby the access (ingress and egress) is controlled. This regulation sets forth procedures to designate and/or modify the type of control to be utilized.

Section 1. Definitions. In this regulation where sections deal with "requirements," the words "shall," "should," and "may" are used to describe the degree of implementation of the requirements. To clarify the meanings intended, the following definitions apply:

(1) Shall - A mandatory condition. Where certain requirements are described with the "shall" stipulation, it is mandatory.

(2) Should - An advisory condition. Where the word "should" is used, it is considered to be advisable usage, recommended but not mandatory.

(3) May - A permissive condition. The

requirement is optional.

(4) Urban - Areas of residential, commercial or industrial developments of sufficient concentration that they constitute or are characteristic of a city which necessitates, for safety reasons, reduced highway speed limits to forty-five (45) MPH or less, excluding interstate systems.

(5) Rural - All areas other than urban.

(6) "Department's plans" as used herein means the Department of Highways' current plans which are based upon plans made at the time of contract letting together with any subsequent changes in access control made in conformance with applicable laws and regulations.

(7) "Access control" as used herein shall be one (1) of two (2) types; namely, "by permit" or "limited."

(a) "By permit" refers to all highways designated as access by permit on the department's plans.

(b) "Limited access" refers to all highways designated as such on the department's plans and shall be of the following two (2) types:

1. A fully controlled access highway which gives preference to through traffic and which shall have access only at selected public roads or streets and which shall have no highway grade crossings or intersections. The termini for control of access shall be as shown on the department's plans.

2. A partially controlled access highway which gives preference to through traffic. However, access to selected public roads and streets may be provided and there may be some highway at grade intersections and private driveway connections as shown on the department's plans. The termini for control of access shall be as shown on the department's plans.

Section 2. One (1) of the three (3) appropriate boxes with applicable notes inserted, shown below, shall be placed on the title sheet and summary sheet of the plans for all state and federal-aid projects.

THIS PROJECT IS A FULLY
CONTROLLED ACCESS HIGHWAY

THE CONTROL OF ACCESS ON THIS PROJECT
SHALL BE BY PERMIT

THIS PROJECT IS A PARTIALLY CONTROLLED
ACCESS HIGHWAY. ACCESS SHALL BE ALLOWED
ONLY WHERE SPECIFICALLY SHOWN ON PLANS

Section 3. Access: Additions and Alterations.
(1) On all highways where access control is by permit, the department shall establish such criteria for modifying existing access and/or allowing additional access points that will consider the safety and the interest of the highway users. Permits may be issued by the department for additional access provided they are in conformance with the established

department criteria.

(2) On all highways where access is "fully controlled," additional accesses shall be granted only by constructing new interchanges, with grade separations where applicable, and design of these new interchanges shall be in conformance with the department's current design standards.

(3) On all highways where access is "partially controlled," the department may permit relocation or shifting of existing access points, addition of new access points, elimination of existing access points, or modification of access control under the following circumstances:

(a) An access point may be relocated or shifted by mutual consent of the property owner and the department. The access shall remain on the same side of the highway, cannot go beyond another existing entrance and shall meet minimum spacing within the department's current design standards and shall be an improvement based on standard engineering practices and safety criteria.

(b) Additional access points may be permitted under the following circumstances after a permit request is processed as hereinafter set forth in Section 4 of this regulation in accordance with the procedures set forth in Section 5 of this regulation:

1. The original design and/or subsequent revisions represent overly restrictive control in light of current state design criteria for access points on partially controlled access highways; and

2. The centerline of the requested access shall not be closer than 1,200 feet to the centerline of the nearest existing point of access in rural areas; or the centerline of the requested access shall not be closer than 600 feet to the centerline of the nearest existing point of access in urban areas; and

3. The property to be affected is not served by a frontage road or other public way.

(4) When a previous decision specifying access control is no longer necessary, as determined by the department, the department may change the access control designation to the extent justified in accordance with procedures outlined in Section 5 of this regulation.

Section 4. Processing Requests for Changes in Access Control by Permit Applicants. (1) All permit requests involving access shall be filed with the department's district office for the county in which the requested access point is located.

(2) Permit requests affecting highways where access control is by permit may be approved at the district level or submitted to higher authority in accordance with procedures determined by the department.

(3) Permit requests recommended by the district for approval for new access on highways where access control is either full or partial shall be forwarded to the State Highway Engineer. The State Highway Engineer shall review the request and obtain the recommendations of the Directors of the Divisions of Maintenance, Traffic, Construction, Right-of-Way and Design of the department in addition to the Federal Highway Administration and Turnpike Engineer Consultant when applicable. The State Highway Engineer shall

submit his recommendation, together with the various recommendations received by him, to the Commissioner of Highways.

(4) When the State Highway Engineer recommends approval of a permit request where access control is full or partial, the Commissioner of Highways shall arrange for a public hearing to be conducted. After reviewing the results of the hearing, the Commissioner of Highways shall make the final decision and advise the State Highway Engineer to implement the decision. The department shall then notify the requesting party of the final decision on the request and, when approval is given, require the requesting party to furnish any additional documents, plans, studies, compensation and other requisites as determined by the department prior to issuing a permit for the construction of the additional access. Also, prior to issuance of the permit, the owner of the property shall compensate the Department of Highways for any increase in value to the affected property attributable to the new access based on before and after value appraisals by the Department of Highways. The property owner shall also reimburse the department for administrative expenses such as expenses incurred in processing the permit, reviews, hearing and appraisals. The cost of construction and maintenance of the new access shall be borne by the property owner(s).

Section 5. Procedures for Changing the Type of Access Control on an Existing Highway Facility. (1) All requests for changing the type of access control on an existing roadway shall be forwarded to the State Highway Engineer.

(2) Access restrictions may be reduced to a level capable of meeting traffic control needs when no significant detriment to highway safety will occur under the following circumstances:

(a) The existing roadway has been replaced by a parallel route which takes traffic away from the existing roadway and the function of the highway has been officially reduced; namely, arterial to collector; or

(b) An analysis of the original traffic projections are made and it is determined that the entire corridor has been constructed and potential land use developments have been accomplished.

(3) More restrictive control of access may be established when necessary to meet highway safety requirements and traffic control needs.

(4) The State Highway Engineer shall review the request and obtain the recommendations of the Directors of the Divisions of Maintenance, Traffic, Construction, Right-of-Way and Design of the department in addition to the Federal Highway Administration and Turnpike Engineer Consultant when applicable. The State Highway Engineer shall submit his recommendation, together with the various recommendations received by him, to the Commissioner of Highways who will arrange for a public hearing to be conducted. After reviewing the results of the hearing, the Commissioner of Highways shall make the final decision and advise the State Highway Engineer to implement the decision.

(5) The department shall modify the plans and deeds when applicable.

(6) In situations where access control is changed, the department shall modify the plans indicating the type of new access control. When access control is reduced, compensation shall be

made to the department to comply with Title 23, Code of Federal Regulations, Section 713.307.

(7) In situations where more restrictive access control is imposed, the department shall provide reasonable access or shall compensate the property owner(s) for loss of reasonable access.

(8) The Commissioner of Highways may make any exceptions to the procedures set forth in this section as are deemed necessary in order to comply with all applicable federal laws and regulations.

Section 6. Every deed of conveyance of property acquired by the department for purposes of right-of-way for any state or federal project shall, in addition to the official order number, show the designation of the type of access highway involved as defined in Section 1 of this regulation. If new access is allowed, the deed of conveyance shall be modified by filing a deed of correction at the expense of the property owner if deemed necessary by the department.

Section 7. The department shall maintain records for public inspection at its office in Frankfort, Kentucky, of all completed state and federal projects, together with the designation of the type of access to be allowed on the project as defined in Section 1 of this regulation.

Section 8. 603 KAR 5:010, Types of limited access; permits for other access, is hereby repealed.

STEPHEN REEDER, Commissioner
FLOYD G. POORE, Secretary

APPROVED BY AGENCY: January 14, 1985

FILED WITH LRC: January 15, 1985 at 11 a.m.

PUBLIC HEARING SCHEDULED: A public comment hearing will be held on this proposed administrative regulation at 10 a.m. local prevailing time on February 26, 1985 in the 4th floor hearing room of the State Office Building, corner of High and Clinton Streets, Frankfort, Kentucky. Any person who intends to attend this hearing must in writing no later than February 21, 1985 so notify: Larry E. Moore, Assistant to the Secretary, Transportation Cabinet, 10th Floor, State Office Building, Frankfort, Kentucky 40622.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Larry E. Moore

(1) Type and number of entities affected: All property owners and traveling public on state highway system.

(a) Direct and indirect costs or savings to those affected: N/A

1. First year:

2. Continuing costs or savings:

3. Additional factors increasing or decreasing costs (note any effects upon competition):

(b) Reporting and paperwork requirements: No additional paperwork.

(2) Effects on the promulgating administrative body: N/A

(a) Direct and indirect costs or savings:

1. First year:

2. Continuing costs or savings:

3. Additional factors increasing or decreasing costs:

(b) Reporting and paperwork requirements: No additional paperwork.

(3) Assessment of anticipated effect on state and local revenues: N/A

(4) Assessment of alternative methods; reasons why alternatives were rejected: N/A

(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: N/A

(a) Necessity of proposed regulation if in conflict:

(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions:

(6) Any additional information or comments:

Tiering:

Was tiering applied? No. Not applicable to this situation.

EDUCATION AND HUMANITIES CABINET Department of Education Office of Instruction

704 KAR 3:355. Essential Skills Remediation.

RELATES TO: KRS 156.070, 158.750

PURSUANT TO: KRS 156.070

NECESSITY AND FUNCTION: KRS 158.750 broadly authorizes and funds a public school remedial instruction program; and KRS 156.070 authorizes the State Board of Education to prescribe courses of study, curricula, and programs as deemed necessary for the efficient management, control, and operation of the public schools. This regulation sets forth the criteria for the authorized public school remediation program, procedures for allotment of units, eligibility criteria for pupils to be served, qualifications and job descriptions for personnel, requirements for housing of units, and requirements for program evaluation.

Section 1. Definitions. (1) Transition classroom means a separate, self-contained, full-time classroom staffed by a teacher who is trained to provide remedial instruction.

(2) Instructional assistant means a trained paraprofessional employee of the school district who provides remedial instruction under the supervision of a teacher.

(3) Remediation means a program of instruction designed to correct educational deficiencies.

(4) Mastery level means a determined level reflected by a score on an achievement test from which a pupil may be expected to progress without remedial assistance.

Section 2. Funding of Units. Funding of remedial units shall be as follows:

(1) For the 1985-86 school year, state funding for a transition classroom unit, to include only a teacher's salary allotment and current operating expense allotment, equal to the rank and experience and current expense allotment stipulated in the biennial budget for foundation program units, shall be made on the basis of one unit for each thirteen (13) pupils who at the end of kindergarten, first, or second grade in the 1984-85 school year achieve twenty-six (26) percent or more below the established mastery level in reading or reading and mathematics on the Kentucky Essential Skills Test (KEST).

Classroom units shall be awarded on a fractional unit basis.

(2) For the 1985-86 school year, state funding for an instructional assistant unit to include a salary allotment, and legally mandated salary benefits shall be reimbursed to local school districts based on actual expenses not to exceed \$8,000 annually per instructional assistant unit and awarded on the basis of one (1) unit for each twenty (20) pupils who at the end of kindergarten, first, or second grade in the 1984-85 school year achieve ten (10) to twenty-five (25) percent below the established mastery level in reading and/or mathematics on the KEST. Instructional assistant units shall be awarded on a fractional unit basis.

(3) No single pupil shall be counted for purposes of generating both a transition classroom unit and instructional assistant unit.

(4) For each year after the 1985-86 school year, funding of transition classroom and instructional assistant units shall be on the basis of test scores of pupils during the year two (2) years preceding said year.

(5) If the amount appropriated in the biennial budget is insufficient to fund the number of transition classroom and instructional assistant units generated, the allotments to districts shall be adjusted on a pro-rata share basis of the units actually calculated to be needed, with first priority assigned to funding transition classroom units.

Section 3. Eligibility Criteria. Selection of pupils to be served in the remediation program shall be as follows:

(1) No more than fifteen (15) pupils shall be enrolled in a transition classroom.

(a) If there are fewer than thirteen (13) pupils identified for any such allocated unit who score at the twenty-six (26) percent or more below mastery level in reading or reading and mathematics on the KEST, and to enhance the availability of remedial instruction for needy pupils, local school districts may group pupils according to the following priorities in order to create a transition classroom unit:

1. Pupils achieving twenty-six (26) percent or more below the established mastery on reading or reading and mathematics;

2. Pupils achieving twenty-six (26) percent or more below mastery levels on mathematics only;

3. Pupils achieving from ten (10) to twenty-five (25) percent below mastery level on reading and/or mathematics;

4. Pupils achieving up to ten (10) percent below mastery in reading and/or mathematics;

5. Pupils with the greatest needs, as determined by KEST scores, shall be selected first.

When pupils are grouped to create a transition classroom, fractional units shall continue to be allocated based upon the KEST scores of eligible pupils and not on the level of remediation to which the pupil is assigned.

In school districts where fractional units result, local school districts shall allocate average daily attendance funds received through the Minimum Foundation Program for those pupils eligible for either transition classrooms and/or instructional assistant units in order to supplement the funding from the remedial program and create full scale transition classroom and/or instructional assistant units.

(b) If there are pupils eligible for a transition classroom unit for whom a unit has not been allocated, these pupils may be provided remedial services in the regular classroom by an instructional assistant, provided that no funds under the program may be allocated for pupils assigned at a level of remediation that is below their needs based upon KEST scores.

(c) Pupils who remain at least twenty-six (26) percent or more below mastery of essential skills in reading or reading and mathematics after one (1) year of remedial instruction in a transition classroom, may be eligible for services in a transition classroom for an additional year. Decisions regarding continued service in a transition room and decisions on promotion or retention for individual pupils shall be based upon the KEST score as well as records of ongoing progress and teacher recommendations.

(2) No more than twenty-two (22) pupils who score between ten (10) and twenty-five (25) percent below mastery in reading and/or mathematics on the KEST shall be served by an instructional assistant.

(3) Pupils who score up to ten (10) percent below mastery in reading and/or mathematics on the KEST shall be provided remediation as needed by the regular classroom teacher.

(4) School districts shall have a written policy for screening pupils which includes criteria for including or excluding individual pupils in the remediation program when documented evidence exists that such pupils' scores on the KEST do not reflect actual academic performance. Under this provision, a pupil may be included in the program only with parental consent. Such evidence shall be made available to the Kentucky Department of Education when requested. With the exception of those pupils who are handicapped only by a speech impairment or a physical disability, pupils who have been appropriately identified as handicapped by an Admissions and Release Committee are not eligible to be served in the remediation program except upon a determination by the Admissions and Release Committee that there is no other appropriate educational placement for such a pupil.

(5) School districts shall notify in writing the parents or guardians of any pupil selected for remediation of the intent to serve the pupil in the remediation program.

Section 4. Program Operation. The remediation program shall include appropriate student learning activities and teaching techniques. The major emphasis of the remediation program shall be reading and mathematics. The level of intensity of remedial instruction shall be based upon the degree of need of the pupils served. The most intensive level of remedial instruction shall be provided in the transition classroom in the content areas of reading and mathematics. Content of other required curricula shall be taught with an emphasis on reading and mathematics. Pupils receiving remedial education shall participate equally in all school services provided for first and/or second grade pupils in such areas as art, music, physical education and extra curricular activities.

Section 5. Qualifications of Personnel and Job Descriptions. Personnel qualified to serve in

the remediation program shall meet the requirements for the position and fulfill the job description as follows:

(1) Teacher:

(a) Requirements:

1. Hold valid elementary education teaching certification;
2. Have demonstrated ability to work with pupils who have not been successful in the regular classroom;
3. Have at least one (1) year prior experience as a classroom teacher; and
4. Participate in program training as specified by the Kentucky Department of Education.

(b) Job description:

1. Implement instructional techniques and learning activities as required by the Kentucky Department of Education;
2. Assess and document pupil progress on a continuous basis and modify instruction as necessary;
3. Maintain program records as required by the Kentucky Department of Education;
4. Communicate with and involve parents; i.e., teacher/parent conferences, written communications, and home visits; and
5. Communicate with other teachers, instructional assistants and supervisors as necessary.

(2) Instructional Assistant:

(a) Requirements:

1. Hold minimum of high school diploma;
2. Demonstrate competent language skills;
3. Have demonstrated ability to work with pupils who have not been successful in the regular classroom; and
4. Participate in program training as specified by the Kentucky Department of Education.

(b) Job description: Under the direction of the supervising teacher:

1. Implement instructional techniques and learning activities as required by the Kentucky Department of Education;
2. Instruct pupils individually or in small groups;
3. Assist with the documentation of pupil progress on a continuous basis;
4. Prepare and organize materials and equipment for remedial instruction; and
5. Participate as an integral member of the remediation instructional team.

Section 6. Facilities. (1) The remediation program shall be housed in facilities which are in compliance with 702 KAR 4:060, 702 KAR 4:070 and 702 KAR 4:080.

(2) In the event facilities are not available which meet the minimum square footage standards, the instructional area shall provide at least twenty-four (24) square feet of instructional space per pupil served or no less than 312 square feet.

Section 7. Program Evaluation. School districts shall evaluate the effectiveness of their remediation programs by collecting specified program data and submitting a report to the Kentucky Department of Education on a timely basis.

(1) The report shall include, but not be limited to:

- (a) A list of names of pupils served.

(b) A summary of pupil progress on essential skills.

(c) Evidence of utilization of remediation materials and techniques.

(d) Evidence of parent involvement activities.

(e) Evidence of communication and coordination efforts within the schools.

(2) The report shall be submitted to the Department of Education by December 15, 1985 and by July 1 of each year thereafter.

(3) On-site monitoring of remediation programs shall occur in conjunction with state evaluation for accreditation of schools.

Section 8. Alternative Remediation Program.

(1) There shall be a pilot program alternative to the essential skills remediation transition class. A selected sample of not more than twenty (20) school districts may participate. This program shall be developed, supervised, monitored and evaluated by the Department of Education. Its purposes shall be as follows:

(a) To provide comparative data on differing approaches to remediation;

(b) To provide practical guidance to school districts in their efforts to provide remediation in the regular classroom to pupils who have failed to master essential skills; and

(c) To provide practical guidance in the development of preventive approaches to essential skills remediation before transition classes become necessary.

(2) The pilot program shall have the following characteristics:

(a) Pupils who would otherwise be eligible for transition classes shall receive remedial instruction in their regular classrooms.

(b) The approach to be used shall be that generally referred to as the "consulting/collaborating teacher" model in which the collaborating teacher will work with regular classroom teachers to plan a remedial program for eligible pupils. Collaborating teachers shall have no administrative or school management responsibilities.

(c) The collaborating teacher and the regular classroom teacher shall work together to develop an individual plan of remediation for each pupil and the collaborating teacher shall be responsible for monitoring the academic progress of each pupil with regard to identified essential skills requiring remediation.

(3) The program approach shall contain the following components:

(a) Support for the regular teacher in efforts to teach and motivate low achieving pupils;

(b) Parent contracts and parent support group activities;

(c) Effective use and training of teacher aides for pupil specific remediation;

(d) Peer tutoring and team learning strategies;

(e) Tutorial work and coaching in pupil self-management skills;

(f) Special homework assignments strategies;

(g) Development of cognitive and thinking skills, and problem solving;

(h) Motivational strategies;

(i) Enrichment activities; and

(j) Long-term staff development and team building strategies.

(4) The Department of Education shall provide training, program materials and supervision to support the implementation of program components. Collaborating teachers shall be

funded on the same basis as transition room teachers and shall meet the same qualifications as transition room teachers. Collaborating teachers shall cooperate with the Department of Education and submit a report as required in Section 7 of this regulation. Collaborating teachers shall be assisted by the Department of Education in developing a network for sharing program information.

(5) School districts seeking to participate as pilot projects shall follow procedures established by the Department of Education which shall include but not be limited to the following:

(a) Each district must submit a written request for program information and an application for participation.

(b) Each district must submit a proposal which shall identify the pupils to be served and the way in which the general requirements of the program will be specifically accomplished. The forms and format for representing this information shall be developed and supplied by the Department of Education. These forms will identify the specific criteria which will be used for deciding local district participation and the process by which these decisions shall be made.

(c) In order to insure a proper sample for comparative purposes, districts desiring to participate as pilot districts which are funded for more than three (3) transition classrooms must propose and operate the alternative essential skills remediation program and transition classrooms for approximately equal numbers of pupils.

ALICE McDONALD, Superintendent of Public Instruction

APPROVED BY AGENCY: January 3, 1985

FILED WITH LRC: January 15, 1985 at 8 a.m.

PUBLIC HEARING SCHEDULED: A public hearing has been scheduled on February 26, 1985, at 9 a.m., EST, in the State Board Room, First Floor, Capital Plaza Tower, Frankfort, Kentucky, to review the regulations adopted by the State Board of Education at its January meeting. Those persons wishing to attend and testify shall contact in writing: Laurel True, Secretary, State Board of Education, First Floor, Capital Plaza Tower, Frankfort, Kentucky 40601, on or before February 21, 1985. If no requests to testify have been received by that date, the above regulation will be removed from the agenda.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Joanne C. Brooks

(1) Type and number of entities affected: 180 school districts.

(a) Direct and indirect costs or savings to those affected:

1. First year: Possible need for additional classroom space; however, declining enrollment may help to offset this.

2. Continuing costs or savings: Same

3. Additional factors increasing or decreasing costs (note any effects upon competition): None

(b) Reporting and paperwork requirements: Moderate: program evaluation reports.

(2) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings:

1. First year: Staff for technical assistance

and monitoring. An appropriation has been made for this administrative cost.

2. Continuing costs or savings: Same

3. Additional factors increasing or decreasing costs:

(b) Reporting and paperwork requirements: Unit funding processes, routine monitoring reports.

(3) Assessment of anticipated effect on state and local revenues: An appropriation has been made for \$16 million to fund the authorized teachers and aides.

(4) Assessment of alternative methods; reasons why alternatives were rejected: N/A

(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication:

(a) Necessity of proposed regulation if in conflict: N/A

(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions: N/A

(6) Any additional information or comments:

Tiering:

Was tiering applied? No. N/A.

EDUCATION AND HUMANITIES CABINET

Department of Education

Office of Vocational Education

704 KAR 20:310. Written Examination and Internship Prerequisites for Vocational Teachers.

RELATES TO: KRS 161.030

PURSUANT TO: KRS 156.070, 161.030

NECESSITY AND FUNCTION: KRS 161.030 requires that, effective January 1, 1985, all new teachers, including out-of-state teachers with less than five years' experience, successfully complete appropriate written tests prior to initial certification in Kentucky and serve a one (1) year internship. The tests are to measure communication skills, general knowledge, professional education concepts, and knowledge in the specific teaching field of the applicant. The State Board of Education is charged with selecting the tests; determining minimum acceptable levels of achievement on each test; establishing a reasonable fee related to the cost of administration of the tests, such fees to be paid by the teacher applicants; and establishing procedures for persons having less than minimum levels of performance on any test to repeat that test and be informed of strengths and weaknesses in performance areas. This regulation implements such duties relative to teacher testing and internship for vocational teachers as specified in 704 KAR 20:305, Section 1(3).

Section 1. All new industrial education, health and personal service occupation, public service teacher applicants, and other applicants for vocational teacher certificates both with and without a teacher preparation degree; and out-of-state applicants for vocational certification with less than five (5) years of teaching experience shall successfully complete the appropriate written tests prior to initial Kentucky certification. Each applicant without a teacher preparation degree shall successfully complete the Comprehensive Test of Basic Skills

(CTIS) for communication skills and general knowledge and the Office of Vocational Education's Teacher Aptitude Test (TAT). Each applicant with a teacher preparation degree shall successfully complete the National Teachers' Examination (NTE) Core Battery as specified in 704 KAR 20:305, Section 2(1). All applicants shall take a specialty test in the occupational area for which certification is to be granted. Specialty tests are identified as follows:

(1) Industrial education - National Occupational Competency Testing Institute's (NOCTI) Teacher Occupational Competency Test (TOCT) if one corresponding to the teaching specialty is available; or if not, the Office of Vocational Education, Department of Education, developed test corresponding to the teaching specialty.

(2) Health occupations - the appropriate state or national examination, where one exists; or, if not, the Office of Vocational Education, Department of Education, developed test corresponding to the teaching specialty.

(3) Public service - the corresponding Office of Vocational Education, Department of Education, developed test.

Section 2. In order to satisfy the testing prerequisites for teacher certification, and before an initial certificate is granted, each applicant shall make the following minimum passing score on each of the following tests:

(1) The Comprehensive Test of Basic Skills:

(a) Communication Skills - 742;

(b) General Knowledge - 720;

(2) The Teacher Aptitude Test - 650;

(3) Specialty Area Tests for Industrial Education:

(a) Air Conditioning - NOCTI - Air Conditioning Refrigeration - 548;

(b) Aircraft Mechanics - NOCTI - Airframe & Power Plant - 578;

(c) Appliance Repair - NOCTI - Major Appliance Repair - 531;

(d) Auto Body Repair - NOCTI - Auto Body Repair - 613;

(e) Auto Mechanics - NOCTI - Auto Mechanics - 554;

(f) Auto Parts - State Developed - Auto Parts - 490;

(g) Building Maintenance - NOCTI - Building Trades Maintenance - 548;

(h) Cabinetmaking - NOCTI - Cabinetmaking and Millwork - 523;

(i) Carpentry - NOCTI - Carpentry - 597;

(j) Civil & Highway Technology - NOCTI - Civil Technology - 392;

(k) Commercial Art - NOCTI - Commercial Art - 518;

(l) Commercial Sewing - NOCTI - Power Sewing - 600;

(m) Diesel Mechanics - NOCTI - Diesel Mechanics - 509;

(n) Drafting - NOCTI - Machine Drafting - 564;

(o) Electricity - NOCTI - Industrial Electrician - 538;

(p) Electronics - NOCTI - Electronics Technology - 498;

(q) General Miner - State Developed - General Miner - 520;

(r) Graphic Arts - NOCTI - Printing - Offset - 495;

(s) Heavy Equipment Operator - State Developed

- Heavy Equipment Operator - 510;

(t) Heavy Equipment Repair - NOCTI - Diesel Mechanics - 509;

(u) Industrial Machinery Maintenance - State Developed - Industrial Machinery Maintenance - 480;

(v) Instrumentation - NOCTI - Electronics Technology - 498;

(w) Interior Finishing - State Developed - Interior Finishing - 460;

(x) Machine Shop - NOCTI - Machine Trades - 525;

(y) Masonry - NOCTI - Masonry - 556;

(z) Meat Cutting - State Developed - Meat Cutting - 580;

(aa) Mine Maintenance Technology - State Developed - Mine Maintenance Technology - 560;

(bb) Mine Equipment Operator - State Developed - Mine Equipment Operator - 570;

(cc) Office Machine Repair - NOCTI - Electronics Technology - 498;

(dd) Plumbing - NOCTI - Plumbing - 501;

(ee) Radio & TV Production - State Developed - Radio & TV Production - 440;

(ff) Radio & TV Repair - NOCTI - Radio & TV Repair - 629;

(gg) Sheet Metal - NOCTI - Sheet Metal - 596;

(hh) Small Engine Repair - NOCTI - Small Engine Repair - 560;

(ii) Tailoring - NOCTI - Textile Production/Fabrication - 557;

(jj) Tool and Die - NOCTI - Tool and Die Maker - 369;

(kk) Truck Mechanics - NOCTI - Diesel Mechanics - 509;

(ll) Upholstery - State Developed - Upholstery - 520;

(mm) Welding - NOCTI - Welding - 510;

(4) Specialty Area Test for Health and Personal Service Occupation:

(a) Barbering - The Kentucky Board of Barbering Examination and Barbering Instructors' License;

(b) Bio-Medical Equipment Technician - Board of Examiners for Bio-Medical Equipment Technicians operating under the Certification Commission Examination and Bio-Medical Equipment Technician;

(c) Cosmetology - Kentucky Board of Hairdressers and Cosmetologists Instructors' License;

(d) Dental Assisting - Dental Assistants' National Board Examination and Dental Assistants' Certification or American Dental Association National Board Examination and Dental Hygiene Licensure coupled with State or Regional Board of Dentistry Examination and Dental Hygiene Licensure;

(e) Health Services - The National Council of Licensure Examination Administered by the Kentucky Board of Nursing and Registered Nurse License in Kentucky;

(f) Medical Assisting - The National Council of Licensure Examination administered by the Kentucky Board of Nursing and Registered Nurse License in Kentucky or American Association of Medical Assistants' Examination and Medical Assistant Certification;

(g) Medical Laboratory Technician - American Society of Clinical Pathologist Certification Examination and Medical Technologist Registration or National Certification Agency Certification Examination and Clinical Laboratory Scientist Certification;

- (h) Medical Secretary - State Developed - Medical Secretary, with a minimum score of 580;
- (i) Practical Nursing - The National Council Licensure Examination administered by the Kentucky Board of Nursing and Registered Nurse License in Kentucky;
- (j) Radiologic Technology - American Registry of Radiologic Technologists' Certification Examination and Radiographers' Registration;
- (k) Respiratory Therapy Technology - National Board for Respiratory Care;
- (l) Surgical Technology - The National Council Licensure Examination administered by the Kentucky Board of Nursing and Registered Nurse License in Kentucky or Association of Surgical Technologists' Examination under the direction of the Liaison Council on Certification and Surgical Technologists' Certification;
- (5) Specialty Area Test for Public Service:
 - (a) Public Service - State Developed - Public Service, with a minimum score of 630; and
 - (6) Specialty Area Test: Other
 - (a) Commercial Foods - NOCTI - Quantity Foods, with a minimum score of 618.

Section 3. Teacher applicants in new vocational programs for which no appropriate specialty test is yet available shall not be required to take a specialty test, except for research and validation purposes. After the new program has been piloted and fully implemented, any new teacher applicant will be required to successfully take a designated specialty test.

Section 4. Applicants for initial certification may take the written tests on any of the dates established by the Department of Education, Office of Vocational Education, with such tests to be administered at least twice monthly. Public announcement of testing dates and locations shall be issued sufficiently in advance of testing dates to permit advance registration as required by the Office of Vocational Education. It shall be the responsibility of each applicant to seek information regarding the dates and location of the tests and to make application to the Office of Vocational Education for the appropriate tests prior to the deadlines established and sufficiently in advance of anticipated employment. Applicants must authorize test results to be forwarded to the Teacher Education and Certification Division, Department of Education.

Section 5. Applicants shall pay an examination fee of fifty (50) dollars directly to the testing agency for the four (4) tests. In the event that fewer than the four (4) tests are to be taken, the fee schedule shall be as follows: (1) CTBS - Communication Skills, ten (10) dollars; (2) CTBS - General Knowledge, ten (10) dollars; (3) Teacher Aptitude Test, ten (10) dollars; (4) specialty area tests, twenty (20) dollars.

Section 6. Applicants who fail to achieve at least the minimum score on one (1) or more of the test(s) shall be permitted to retake the test or those tests no more than two (2) additional times, and all retakes must meet the regularly scheduled testing dates. However, initial certification will not be granted until acceptable scores are achieved in each of the

required areas.

Section 7. The Department of Education shall collect such data and conduct such analyses of the impact of these tests as to permit a review of these regulations on at least a biennial basis.

Section 8. All applicants for Kentucky vocational teaching certificates who successfully complete the required written tests shall serve a one (1) year internship. The teacher/intern shall be a full-time employee with supervision, assistance, and assessment during the one (1) year internship. The Office of Vocational Education shall administer the internship program and shall follow the requirements established by the State Board of Education:

(1) A beginning teacher committee meeting the requirements of KRS 161.030 shall be identified by the Office of Vocational Education and shall consist of:

(a) A resource teacher who is certified in the same occupational area as the teacher/intern;

(b) The school principal where the internship is being served; and

(c) An occupational area teacher educator from a state-approved teacher training institution or, if the teacher training institution is unable to provide a member, an occupational specialist within the Office of Vocational Education.

(2) Internships for vocational teachers in area centers and state vocational-technical schools shall be administered by the Office of Vocational Education, Department of Education.

ALICE McDONALD, Superintendent of Public Instruction

APPROVED BY AGENCY: January 3, 1985

FILED WITH LRC: January 15, 1985 at 8 a.m.

PUBLIC HEARING SCHEDULED: A public hearing has been scheduled on February 26, 1985, at 10 a.m., EST, in the State Board Room, First Floor, Capital Plaza Tower, Frankfort, Kentucky, to review the regulations adopted by the State Board of Education at its January meeting. Those persons wishing to attend and testify shall contact in writing: Laurel True, Secretary, State Board of Education, First Floor, Capital Plaza Tower, Frankfort, Kentucky 40601, on or before February 21, 1985. If no requests to testify have been received by that date, the above regulation will be removed from the agenda.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Audrey Carr

(1) Type and number of entities affected: Approximately 130 new teacher applicants for Kentucky Vocational Education teacher certification.

(a) Direct and indirect costs or savings to those affected:

1. First year: A testing fee of approximately \$50 for each applicant to be paid by the applicant to the administering agency.

2. Continuing costs or savings: Each new teacher applicant will have to take the required tests at a cost of \$50, perhaps higher future years.

3. Additional factors increasing or decreasing costs (note any effects upon competition): None

(b) Reporting and paperwork requirements: Application for tests.

(2) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings:

1. First year: The cost includes maintenance of the clerical support system such as word processing and computer services; duplication and administering of tests; training and implementation of the internship committees.

2. Continuing costs or savings: The above is a continuing cost.

3. Additional factors increasing or decreasing costs: As the data accumulates from year to year, the maintenance cost(s) will increase.

(b) Reporting and paperwork requirements: All tests, tests' analyses, and test administration and scoring documentation will be performed by the Office of Vocational Education, Department of Education. Therefore, requiring a considerable increase in clerical and supervisory work.

(3) Assessment of anticipated effect on state and local revenues: None

(4) Assessment of alternative methods; reasons why alternatives were rejected: None - Implements Senate Bill 19 which is very prescriptive.

(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: None

(a) Necessity of proposed regulation if in conflict:

(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions:

(6) Any additional information or comments: None

Tiering:

Was tiering applied? Yes. Regulation ultimately applies to individual teacher applicants who must satisfy the same testing and internship requirements for certification.

PUBLIC PROTECTION AND REGULATION CABINET Kentucky Harness Racing Commission

811 KAR 1:215. Kentucky Standardbred Development Fund.

RELATES TO: KRS 230.770

PURSUANT TO: KRS 230.770(5),(6)

NECESSITY AND FUNCTION: To regulate the eligibility of horses participating in races for which a portion of the purse is provided by the Kentucky Standardbred Development Fund. The function of this regulation is to establish eligibility standards and administrative practices to enforce such standards and to establish mandatory criteria for these races and the administration of purses and payments in such races.

Section 1. Beginning with the 1985 breeding season the owner or lessee of any standard bred stallion desiring to use him for breeding purposes and to have him qualify under the Kentucky Standardbred Development Fund must register said stallion by February 1 of the breeding season with the Kentucky Harness Racing Commission. The registration shall be on forms provided by the commission with a payment of ten

(10) percent of the stud fee or a minimum of \$100. A virgin standardbred stallion entering stud for the first time may be registered prior to his first breeding and must stand in the Commonwealth of Kentucky the remainder of the breeding season.

Section 2. Stallions remaining in the state for more than one (1) breeding season shall be renewed annually. A renewal form must be filed by February 1 of the breeding season on forms provided by the commission. The annual renewal fee for stallions to the Kentucky Standardbred Development Fund will be ten (10) percent of the stud fee with a minimum of \$100.

Section 3. Owners of standardbred stallions registered with the commission shall submit by October 1 a report of mares bred during the preceding twelve (12) months. In addition, beginning with foals of 1985 owners shall submit to the Kentucky Standardbred Development Fund a copy of the Foaling Report Sheet sent to the United States Trotting Association of foals dropped.

Section 4. If the commission finds a registration to be incorrect, such registration may be cancelled and notice thereof shall be sent to the owner of the horse.

Section 5. In order to qualify for the Kentucky Standardbred Development Fund, a foal must be the product of the mating of a mare with a Kentucky registered and resident stallion. The mare to be bred must either be a resident at the farm on which the stallion stands or be shipped to the farm on which the stallion stands to be impregnated. The transporting or mailing of a Kentucky registered stallion's semen to a broodmare is strictly prohibited.

Section 6. Upon failure of an owner or lessee of a registered stallion to furnish the commission requested information relative to the registration of a horse, the commission may suspend or cancel the registration.

Section 7. If the commission finds that an application for registration or transfer contains false or misleading information, the commission may summon the person who executed said application and any other person who has knowledge thereof. Failure to respond to such summons may cause the commission to suspend or cancel the registration of horses owned by such person. After a hearing, the commission may suspend, cancel, or bar from further registration, horses owned by the person who executed the false or misleading information.

Section 8. Any owner or lessee of a stallion eligible or the Kentucky Standardbred Development fund shall designate a resident of Kentucky as an authorized agent who shall be responsible for the registrations and records of the farm and for complying with the requirements of the Kentucky Standardbred Development Fund on behalf of the owner or lessee.

Section 9. The authorized agent application is provided by the Kentucky Harness Racing Commission and must be filed together with the stallion registration.

Section 10. Sires Stakes Races in which any part of the purse is provided by the Kentucky Standardbred Development Fund shall be subject to the rules and regulations of the Kentucky Harness Racing Commission.

Section 11. Each colt, gelding or filly participating in a Kentucky Sires Stakes race must have been sired by a stallion registered with the Kentucky Harness Racing Commission, and maintained eligibility to the Kentucky Standardbred Development Fund.

Section 12. Each race shall be a one (1) mile dash.

Section 13. The race will split if more than twelve (12) declare to start. In the case of a split the event will be raced as follows: The nominating, sustaining, stallion and starting fees shall be added to the purse and each division shall race for an equal part of that purse.

Section 14. Gait must be specified by the first two (2) year old payment. Change of gait may be made at the time of declaration at the track, but sustaining payments remain in the funds of the original gait specified.

Section 15. All races will be raced in separate colt-gelding and filly divisions.

Section 16. All declaration fees will be added to the purse and will be made payable to the racing association at the time of declaration.

Section 17. The purse will be distributed on the following percentage basis:

- (1) 50-25-12-8-5; five (5) starters or more;
- (2) 50-25-15-10; four (4) starters;
- (3) 60-30-10; three (3) starters;
- (4) 65-35; two (2) starters.

The nominating, sustaining, stallion, supplemental and starting fees shall be added to the purse and each division shall race for an equal part of that purse. In 1985, purses for three (3) and two (2) year olds will be \$16,500 estimated. This will apply at each of the Kentucky pari-mutual tracks.

Section 18. Should circumstances prevent the racing of any event, if the race is not drawn, added monies will be equally divided among horses eligible for the uncontested event at the time of declaring off. In the event the race is drawn, the monies will be equally divided among the horses entered to start. This will include stake payments, declaration fees and purses provided by the Kentucky Standardbred Development Fund.

Section 19. Starters will declare in at each track at the time specified by the association conducting the event.

Section 20. At the time of the declaration a started must show at least one (1) charted line with no breaks within the last six (6) starts and within thirty (30) days prior to the day of the race; a two (2) year old trotter must have been timed in 2:14 or faster; a two (2) year old pacer must have been timed in 2:12 or faster; a three (3) year old trotter must have been timed

in 2:10 or faster and a three (3) year old pacer must have been timed in 2:08 or faster. A broken equipment break or an interference break will not be considered a break as stated in this section. An eligibility certificate or a clear photocopy of the eligibility certificate must be on deposit with the race secretary at the time of declaration or the declaration will be rejected. If the horse has a start subsequent to the eligibility certificate or photocopy being sent, the declarer must advise the race secretary of the commitment to race or the horse may be scratched from the race. This rule shall be in effect for wagering and non-wagering races.

Section 21. The Kentucky Standardbred Development Fund will be distributed by the Kentucky Harness Racing Commission on an equitable basis to promote the purposes expressed in KRS 230.770. The commission may authorize expenditures at any time; however, the commission may at its scheduled meeting each November, make provisions for the following year's distribution of funds for stake races. The Sires Stakes racing dates shall be issued after the tracks' race dates are set.

Section 22. The Kentucky Standardbred Development Fund will provide a trophy for each event. In the case of division races each division shall receive a trophy.

Section 23. After payment of the nomination fee, foals shall remain eligible for events each year by making the required sustaining and declaration payments for that year. The two (2) year old March 15 payment must be made in order to remain eligible as a three (3) year old.

Section 24. All nomination and sustaining payments shall be made to the Kentucky Standardbred Development Fund.

Section 25. Payments: All yearlings will be nominated on May 15 and fees will be twenty (20) dollars each. Beginning with foals of 1983 a late payment of \$100 will be accepted to nominate a yearling if the May 15 deadline is missed. This supplemental payment may be made at any time prior to the two (2) year old March 15 payment. Fees are payable to the Kentucky Standardbred Development fund.

TWO-YEAR OLD PAYMENTS

March 15th	\$ 40
May 15th	\$200
Declaration Fee (for each track)	\$200
March 15th payment makes entry eligible as a 3-year old.	

THREE-YEAR OLD PAYMENTS

February 15	\$ 80
March 15	\$200
Declaration Fee (for each track)	\$200

Section 26. 811 KAR 1:200 Administration of purses and payments, and 811 KAR 1:032, Eligibility standard; enforcement, are hereby repealed.

CARL B. LARSEN, Executive Director
MELVIN WILSON, Secretary

APPROVED BY AGENCY: December 19, 1984

FILED WITH LRC: January 10, 1985 at 11 a.m.
PUBLIC HEARING SCHEDULED: A public hearing has been scheduled on this regulation on February 21, 1985 at 10 a.m. at the office of the Kentucky Harness Racing Commission. Anyone interested in attending this hearing, shall notify in writing Carl B. Larsen, Executive Director, Kentucky Harness Racing Commission, 1051-H Newtown Road, Lexington, Kentucky 40511, at least five (5) days before the hearing.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Carl B. Larsen, Executive Director.

(1) Type and number of entities affected: Horsemen

(a) Direct and indirect costs or savings to those affected: None

1. First year:

2. Continuing costs or savings:

3. Additional factors increasing or decreasing costs (note any effects upon competition):

(b) Reporting and paperwork requirements: None additional

(2) Effects on the promulgating administrative body: None

(a) Direct and indirect costs or savings: None

1. First year:

2. Continuing costs or savings:

3. Additional factors increasing or decreasing costs:

(b) Reporting and paperwork requirements: None additional

(3) Assessment of anticipated effect on state and local revenues: None

(4) Assessment of alternative methods; reasons why alternatives were rejected: Not applicable

(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: None

(a) Necessity of proposed regulation if in conflict: Not applicable

(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions: Not applicable

(6) Any additional information or comments: None

Tiering:

Was tiering applied? No. Regulation affects all horsemen.

CABINET FOR HUMAN RESOURCES Department for Employment Services Division of Unemployment Insurance

903 KAR 5:280. Appeals from notices of income tax refund intercept.

RELATES TO: KRS 131.570(1), 341.440, 341.450(2)

PURSUANT TO: KRS 13A.100, 194.050, 341.115

NECESSITY AND FUNCTION: This regulation sets up the appeals process and general rules for the conduct of hearings regarding the intercept of individual income tax refunds in full or partial satisfaction of outstanding benefit overpayments.

Section 1. Appeals to Referee. (1) The presentation of an appeal to a referee:

(a) Any debtor wishing to appeal to a referee from a notice of income tax refund intercept issued by the Revenue Cabinet may do so by

filing with the Division of Unemployment Insurance or its authorized representative within thirty (30) days of the date of the notice a written statement clearly indicating the party's desire to have a hearing.

(b) An appeal to a referee shall be considered filed at the time it is delivered to a representative of the division or deposited in the mail as indicated by the postmark thereon.

(2) Notification of Hearings: All hearings shall be scheduled promptly and notices thereof shall be mailed to all interested parties at least seven (7) days before the date of hearing specifying the time and place of hearing, except that, the referee may, when the exigencies of the situation in his judgement require, set a case for hearing before the expiration of seven (7) days, only then, however, upon agreement of all interested parties.

Disqualification of Referees: No referee shall participate in the hearing of an appeal in which he has an interest. Challenges to the interest of any referee shall be heard and decided by the commission.

(4) Hearing of Appeals:

(a) The debtor and any other party to the appeal may present such evidence as may be pertinent and may question the opposite party and his witnesses. The referee shall, if he deems it necessary to secure full information on the issues, examine each party who appears and his witnesses. The referee may take any additional evidence which he deems necessary, but, if additional evidence is taken, all interested parties shall be afforded an opportunity of examining and refuting the same.

(b) The parties to an appeal, with the consent of the referee, may stipulate the facts involved, in writing. The referee may decide the appeal on the basis of such stipulation or may schedule a hearing and take such further evidence as he deems necessary.

(c) The hearing shall be scheduled and held at a place where the debtor can attend without undue expense or inconvenience, giving consideration to the debtor's place of residence.

(d) The hearing may be conducted via teleconference if the residence of the debtor is not in close geographic proximity, or if other circumstances warrant.

(e) The referee may in his discretion grant a continuance of a hearing in order to secure necessary evidence.

(f) Parties to a teleconference hearing who wish to introduce documents or written materials into the record at the referee hearing, must immediately mail copies of such documents to the referee, and to the opposing party. Failure to provide both the referee and the opposing party with copies of such evidence may result in its being excluded from the record.

(5) Decisions:

(a) After the hearing is concluded the referee shall promptly set forth in writing his finding of facts on the issues involved, his decision and the reason therefor; provided, however, that if the appellant fails to appear and prosecute his appeal, the referee may summarily affirm the notice of income tax refund intercept.

(b) Copies of the decision shall be mailed to the debtor and other parties to the appeal, and a copy shall be retained in the division's files.

(c) The mechanical recording of the hearing shall be retained in the division's files

pending further appeal. If no such appeal is initiated, the recording shall be destroyed sixty (60) days from the date the decision is mailed.

(d) Any referee decision may be superseded and amended after being released in order to correct obvious technical errors or omissions. Such corrected decision shall have the same appeal rights as the decision which it amends or corrects.

Section 2. Appeals to the Commission. (1) Presentation of an appeal to the commission:

(a) Any debtor wishing to appeal to the commission from a decision of a referee may make written application with the commission, the division or its authorized representative for leave to appeal in any form which clearly indicates the party's intention to appeal. A notice of such application for leave to appeal shall be mailed by the commission to other interested parties.

(b) An application for leave to appeal shall be considered initiated and filed at the time it is delivered to an authorized representative of the commission or the division or deposited in the mail, as indicated by the postmark thereon.

(c) The commission may grant or deny the application for leave to appeal without a hearing or may notify the parties to appear at a specified place and time for argument on the application.

(2) Hearing of appeals:

(a) Except in instances where the commission orders cases removed to it from a referee, all appeals to the commission may be heard upon the records of the division and the evidence and exhibits introduced before the referee. In the hearing of an appeal on the record, the parties may, if they desire, present written arguments and, at the commission's discretion be allowed to present oral arguments. The party presenting an appeal to the commission, (appellant) shall have ten (10) days from the date of mailing of the commission's notification of appeal receipt within which to file written argument. The appellee shall have seven (7) days thereafter within which to file response. When copies of tape recorded testimony are requested, the requesting party shall have a period of ten (10) days from the date of mailing of the requested tapes by the commission within which to file written argument. Opposing party's response shall be due seven (7) days thereafter. Written argument shall be considered filed when delivered to a representative of the commission or division, or deposited in the mail, as indicated by the postmark thereon. The commission may extend the time for filing written argument upon a showing of good cause by either party to the appeal. Written argument shall be considered filed when delivered to a representative of the commission, or deposited in the mail, as indicated by the postmark thereon.

(b) The commission may, however, direct the taking of additional evidence before it, if needed, in order to determine the appeal. If, in the discretion of the commission, additional evidence is necessary to determine the appeal, the parties shall be notified of the time and place such evidence shall be taken at least seven (7) days prior to the date on which the evidence will be taken.

(c) The commission, at its discretion, may return any case or issue to a referee for the taking of such additional evidence as it desires. The referee shall take the testimony in the manner prescribed for the hearing of appeals before referees and shall thereupon return the record to the commission for its decision thereon.

(3) The hearing of appeals by the commission on cases ordered removed to it from any referee: The procedure on any case before a referee, ordered by the commission to be removed to it, shall be presented, heard and decided by the entire commission in the manner as prescribed for the hearing of other cases before the referee.

(4) The determination of appeals before the commission:

(a) Following the conclusion of a hearing the commission shall promptly announce its decision, which may be either an affirmation of the decision of the referee, or a separate finding of facts, decision and reasons therefor. The decision shall be in writing and shall be signed by the members of the commission who heard the appeal. At the discretion of the commission, its decisions may be designated as representing precedent for future cases of similar circumstance. Decisions designated as precedent shall be binding on all lower levels of determination.

(b) If a decision of the commission is not unanimous, the decision of the majority shall control. The minority may file a dissent from such decision of the majority setting forth the reasons why it fails to agree with the majority.

(c) Copies of the decision shall be mailed to all interested parties.

(5) Reconsideration:

(a) A party adversely affected by a decision of the Kentucky Unemployment Insurance Commission may, within twenty (20) days of the mailing date of such decision, file application for reconsideration of the commission's decision. The commission may grant or deny the application for reconsideration. An application for reconsideration shall be considered initiated and filed at the time it is delivered to an authorized representative of the commission or division, or deposited in the mail as indicated by the postmark thereon. The commission shall respond to such requests for reconsideration by mail, within three (3) working days after receipt.

(b) An application for reconsideration of a decision of the commission shall not stay the running of the time for appeal to the circuit court, if such application is denied.

Section 3. General Rules for Both Appeal Stages. (1) Issuance of subpoenas: Subpoenas requested to compel the attendance of witnesses and/or the production of records for any hearing of an appeal shall be issued only on a sworn statement by the party applying for the issuance thereof setting forth the substance of the anticipated proof to be obtained and the need therefor.

(2) Appeal record: All reports, forms, letters, transcripts, communications, statements, determinations, decisions, orders, and other matters, written or oral, from the debtor or personnel or representatives of the division which have been written, sent, or made

in connection with an appealed claim shall constitute the record with respect to such claim.

(3) Supplying information from the records of the division of unemployment insurance: Information from the records of the division shall be furnished to an interested party or his representative to the extent necessary for the proper presentation of the party's case, only upon written request therefor. All requests for such information shall state, as clearly as possible, the nature of the information desired. Nothing in this regulation shall prevent an interested party or his representative from examining a record in the hands of a referee at a hearing.

(4) Conduct of hearings: All hearings shall be conducted informally without regard to common law, statutory or technical rules or procedure and in such manner as to determine the substantial rights of the parties. The parties and their witnesses shall testify under oath or affirmation. All issues relevant to the appeal shall be considered and passed upon. However, those issues shall be limited to: the amount of the debt owed; whether or not the debt is final due and owing; and the existence of any encumbrance concerning the method of debt collection.

(5) Reopening hearings: Any party to an appeal who fails to appear at the scheduled hearing may, within seven (7) days from the date thereof, request a rehearing. The request shall be granted if such party has shown good cause for his failure to appear. The request shall be in writing and shall set forth the reasons for his failure to attend the scheduled hearing. The request shall be mailed or delivered to the office where the appeal was filed or the Appeals Branch, the Division of Unemployment Insurance, Frankfort, Kentucky. Upon the rehearing being granted, notice of the time and place of the reopened hearing shall be given to the parties or to their representatives.

(6) Providing of testimony (tapes) to interested parties:

(a) Parties or their authorized representatives may secure a duplicate of the recording of testimony made at the referee hearing by contacting the Kentucky Unemployment Insurance Commission at the address listed on the referee decision.

(b) There shall be no charge for this service, however, parties should forward blank cassette tapes with their request in numbers sufficient to record the requested testimony.

(c) All requests under this subsection must be filed within ten (10) days of the mailing date of the notice of appeal receipt.

Section 7. Service of Process: The Branch Manager, Kentucky Unemployment Insurance Commission, Cabinet for Human Resources, 275 East Main Street, Frankfort, KY 40621, is hereby designated, by the Kentucky Unemployment Insurance Commission, as the person for receipt of Service of Process (Summons) in Civil Actions filed under the provisions of KRS 341.450(2).

JAMES P. DANIELS, Commissioner

E. AUSTIN, JR., Secretary

APPROVED BY AGENCY: January 9, 1985

FILED WITH LRC: January 15, 1985 at Noon

PUBLIC HEARING SCHEDULED: A public hearing on this regulation has been scheduled for February

21, 1985, at 9 a.m., in the Health Service Auditorium, 275 East Main Street, Frankfort, Kentucky. However, this hearing will be cancelled unless interested persons notify the following office in writing by February 16, 1985, of their desire to appear and testify at the hearing. Hughes Walker, General Counsel, Office of the General Counsel, Cabinet for Human Resources, 275 East Main Street, Frankfort, KY 40621.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Commissioner James P. Daniels

(1) Type and number of entities affected: Unemployment insurance benefit claimants and taxable employers owing debts to the Unemployment Insurance Trust Fund; thousands per year.

(a) Direct and indirect costs or savings to those affected:

1. First year: Unknown; claimants owing liquidated debts from benefit overpayments could have part or all of debt offset from any tax refund due them from Revenue Cabinet.

2. Continuing costs or savings: Unknown; however, taxable employers having liquidated debts will also be included in future year.

3. Additional factors increasing or decreasing costs (note any effects upon competition): None

(b) Reporting and paperwork requirements: Requirements which are normally associated with processing unemployment insurance appeals.

(2) Effects on the promulgating administrative body: Increased activities normally associated with an increase in the number of unemployment insurance appeals.

(a) Direct and indirect costs or savings:

1. First year: Costs and number of anticipated appeals to be processed unknown at this time.

2. Continuing costs or savings: Unknown at this time

3. Additional factors increasing or decreasing costs: None

(b) Reporting and paperwork requirements: Requirements which are normally associated with processing unemployment insurance appeals.

(3) Assessment of anticipated effect on state and local revenues: none

(4) Assessment of alternative methods; reasons why alternatives were rejected: none

(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: none

(a) Necessity of proposed regulation if in conflict: n/a

(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions: n/a

(6) Any additional information or comments: This proposed regulation establishes an appeals process and rules for hearings almost identical to that already in effect for other unemployment insurance issues.

Tiering:

Was tiering applied? No. 1) Procedures almost identical to those already in effect. 2) All appellants are treated equally under the law.

ADMINISTRATIVE REGULATION REVIEW SUBCOMMITTEE

Minutes of the January 7, 1985 Meeting

The January meeting of the Administrative Regulation Review Subcommittee was held on Monday, January 7, 1985 at 2 p.m. in Room 103. Representative Bill Brinkley, Chairman, called the meeting to order, and the secretary called the roll. On motion of Representative Bruce, seconded by Senator Quinlan, the minutes of the December 10-11, 1984 meeting were approved.

Present were:

Members: Representative Bill Brinkley, Chairman; Senators Pat McCuiston and Bill Quinlan; Representatives James Bruce and Greg Stumbo.

Guests: Senator Helen Garrett; Pat Arnold, Department of Law; Richard L. Ross, J. H. Voige, Board of Pharmacy; Martin Glazer, Mary Romelfanker, Bernadette M. Sutherland, Board of Nursing; Bill Graves, Department of Fish and Wildlife Resources; David Boswell, Thomas M. Troth, Department of Agriculture; Clyde P. Baldwin, William S. Coakley, Martha L. Hall, Timothy Kuryla, Roger B. McCann, Art Williams, Natural Resources and Environmental Protection Cabinet; G. C. Ethington, Jr., Sandra Pullen, Transportation Cabinet; Catherine C. Staib, Edward A. Farris, Alcoholic Beverage Control Board; Larry Stanley, Public Service Commission; Barbara Coleman, Ked Fitzpatrick, N. Clifton Howard, Greg Lawther, Delano Miller, Cabinet for Human Resources; Lonnie S. Carter, Glenmore Distilleries; Frank M. Dailey, Kentucky Distillers' Association; Bill Doll, Kentucky Medical Association; Tom Dorman, Valerie Estill, Unified Prosecutorial System; Kenneth Halgash, Heaven Hill Distilleries; Robert E. Meyer, R. Scott Reid, Brown-Forman Corporation; Fred Tuggle, Kentucky Wholesale Liquor Dealers.

LRC Staff: Susan Wunderlich, Joe Hood, Gregory Karambellas, Rhonda Franklin, Donna Valencia, Mike Schillhahn, Paula Payne and Carla Arnold.

Press: Jack D. Brammer, Lexington Herald-Leader; Paul Long, State Journal.

The Administrative Regulation Review Subcommittee met on January 7, 1985, and submits the following report:

The Subcommittee determined that the following regulations, as amended, complied with the requirements of KRS Chapter 13A:

Military Affairs: Division of Air Transport

106 KAR 1:040 (Division of Air Transport and use of state aircraft). General Wellman proposed the following amendments: In Section 3(1), delete the language "or which is otherwise in the best interest of the Commonwealth" from the definition of "official business." In Section 5, add, as a requirement for use of state aircraft, "that the use of state aircraft is the most economical means of transportation." In Section 6(1), add, "7. That use of state aircraft is the most economical means of transportation;" as an item to be included in requests for use of state aircraft. In Section 6(4), make a technical change replacing the Finance and Administration Cabinet with the office responsible for retaining copies of requests and manifests

relating to state aircraft. The subcommittee agreed to the proposed amendments suggested by the agency.

Education and Humanities Cabinet: Department of Education: Office of Instruction: Instructional Services

704 KAR 3:005 (Educational improvement act implementation plan). The subcommittee approved the following amendments: In the Pursuant To line, insert, "158.650" in lieu of "58.650." In Section 2(4)(b)1, insert, "five and five-tenths (5.5) percent" in lieu of "six and five-tenths (6.5) percent." In Section 3(1) insert after the word deficiencies, "as defined" and delete "not appropriately addressed as required"; insert after "by this regulation and", "meet other statutory requirements" and, delete "related statutes in its current separate component documents." In Section 4(1), insert "September" in lieu of "October." In Section 5, after the words "satisfactory progress toward", insert "correcting deficiencies in", and delete "meeting minimum."

Office of Vocational Education: Fiscal Management

705 KAR 2:030 (Foundation program units). The State Board of Education voted to rescind the proposed amendment to Section 8. In addition, all references to "Bureau of Vocational Education" should now read "Office of Vocational Education."

Department of Housing, Buildings and Construction: Local Fire Departments

815 KAR 45:060 (Survivor benefits death of paid firefighter). In Section 1(e), insert the words, "the line" and delete the word "performance." In Section 1(f), insert the word "Survivors" and delete the word "Beneficiaries." In Section 1(i), insert the words "born out of wedlock" and delete the word "illegitimate."

The Subcommittee determined that the following regulations complied with KRS Chapter 13A.

General Government Cabinet: Board of Ophthalmic Dispensers

201 KAR 13:040 (Licensing; application, examination; temporary permit).

201 KAR 13:050 (Apprentices).

Board of Physical Therapy

201 KAR 22:010 (Objectives of physical therapy).

201 KAR 22:020 (Method of applying for licensure).

Tourism Cabinet: Department of Fish and Wildlife Resources: Game

301 KAR 2:050 (Land Between the Lakes hunting rules).

301 KAR 2:200 (Migratory bird hunting seasons).

Corrections Cabinet: Office of the Secretary

501 KAR 6:010 (Corrections policies and procedures.).

Transportation Cabinet: Department of Fiscal Management: Toll Facilities

600 KAR 2:040 (Appearance requirements and uniforms of Division of Toll Facilities' Employees.). Chairman Brinkley noted that this was another personnel regulation promulgated by an agency rather than the Personnel Board, and it should be included with others referred by the subcommittee at its last meeting to the commissioner of Personnel, other agencies, and subcommittee staff. Representative Robinson suggested that while the dress code was proper, the detailed restrictions referring to goatees, mustaches and beards may be excessive.

Education and Humanities Cabinet: Department of Education: Teacher Certification

704 KAR 20:120 (Emergency certification).
704 KAR 20:210 (Substitute teachers).
704 KAR 20:305 (Written examination prerequisites for teacher certification).

Department of Mines and Minerals: Explosives and Blasting

805 KAR 4:087 (Explosives).
805 KAR 4:110 (Initiation of explosive charges; electric blasting).

Department of Insurance: Administration

806 KAR 2:095 (Accounting and reporting requirements for collecting insurance tax).
806 KAR 2:097 (Filing of municipal premium tax ordinances, notification to insurers).

Public Service Commission: Utilities

807 KAR 5:006 (General rules).

Kentucky Harness Racing Commission: Harness Racing Rules

811 KAR 1:070 (Licensing; owners, drivers, trainers, grooms and agents).
811 KAR 1:150 (Officials; deputies and assistants).
811 KAR 1:195 (Track deductions from wagers).

Department of Housing, Buildings and Construction: Local Fire Departments

815 KAR 45:050 (Requirements for obtaining firefighters training facility grants).
815 KAR 45:060 (Survivor benefits death of paid firefighter).

Cabinet for Human Resources: Department for Health Services: Local Health Departments

902 KAR 8:020 (Policies and procedures for local health department operations).
Hospitalization of Mentally Ill and Mentally Retarded

902 KAR 12:080 (Policies and procedures for mental health/mental retardation facilities).

Certificate of Need and Licensure

902 KAR 20:008 (License procedure and fee schedule).

902 KAR 20:026 (Operations and services, skilled nursing facilities).

902 KAR 20:036 (Operation and services, personal care homes).

902 KAR 20:048 (Operation and services, nursing homes).

902 KAR 20:051 (Operation and services, intermediate care).

902 KAR 20:200 (Tuberculosis testing in long term care facilities). Chairman Brinkley acknowledged a letter from Senator Lackey expressing his concerns over tuberculosis testing in long-term care facilities and the

response presented by the Department for Health Services. The Subcommittee approved a motion that the objections to the regulation and the Department's response be forwarded to the Interim Joint Committee on Health and Welfare for study with a request that the Committee forward the results of its study and recommendations to the Subcommittee.

Department for Employment Services: Unemployment Insurance

903 KAR 5:130 (Appeals).

Employment Services

903 KAR 6:040 (Job Training Partnership Act).

Department for Social Insurance: Medical Assistance

904 KAR 1:004 (Resource and income standard of medically needy).

904 KAR 1:011 (Technical eligibility requirements).

904 KAR 1:036 (Amounts payable for skilled nursing and intermediate care facility services).

904 KAR 1:061 (Payments for medical transportation).

904 KAR 1:250 (Incorporation by reference of materials relating to the Medical Assistance Program).

Public Assistance

904 KAR 2:006 (Technical requirements; AFDC).

904 KAR 2:016 (Standards for need and amount; AFDC).

904 KAR 2:020 (Child support).

904 KAR 2:116 (Low income home energy assistance program).

904 KAR 2:140 (Supplementary policies for programs administered by the Department for Social Insurance).

904 KAR 2:150 (Incorporation by reference of materials relating to the Aid to Families with Dependent Children Program).

904 KAR 2:170 (Incorporation by reference of materials relating to the Child Support Program).

904 KAR 2:180 (Incorporation by reference of materials relating to the Home Energy Assistance Program).

904 KAR 2:190 (Incorporation by reference of materials relating to the Refugee Assistance Program).

904 KAR 2:200 (Collections program).

Food Stamp Program

904 KAR 3:090 (Incorporation by reference of materials relating to the Food Stamp Program).

Department for Employment Services: Unemployment Insurance

904 KAR 5:260 (Unemployment insurance procedures).

Department for Social Services: Children's Residential Services

905 KAR 7:030 (Children's residential services facilities manuals).

905 KAR 7:080 (Children's treatment services facility manual).

905 KAR 7:100 (Resident liaison responsibilities).

The following regulations were deferred at the agency's request.

Natural Resources and Environmental Protection Cabinet: Department for Environmental Protection: Division of Water

401 KAR 5:050 (Definitions and general provisions; KPDES permitting program).

401 KAR 5:055 (Scope and applicability of the KPDES program).

401 KAR 5:060 (KPDES application requirements).
401 KAR 5:065 (KPDES permit conditions).
401 KAR 5:070 (Provisions of the KPDES permit).

**Alcoholic Beverage Control Board: Advertising
Distilled Spirits and Wine**

804 KAR 1:120 (Rebates and gift certificates).

Public Service Commission: Utilities

807 KAR 5:006 (General rules).

**Department of Housing, Buildings and
Construction: Plumbing**

815 KAR 20:055. Water heater devices).

815 KAR 20:120. Water supply and distribution).

The Subcommittee had no objections to
emergency regulations which had been filed.

The subcommittee adjourned at 11 a.m. until
January 7, 1985.

CUMULATIVE SUPPLEMENT

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LOCATOR INDEX -- EFFECTIVE DATES

NOTE: Emergency regulations expire 90 days from publication or upon replacement or repeal.

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400 KAR 2:020	1206	8-7-84
405 KAR 1:015	1215	8-7-84
405 KAR 3:015	1216	8-7-84
405 KAR 7:015	1216	8-7-84
405 KAR 30:015	1218	8-7-84
900 KAR 3:010	1226	8-7-84

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40 KAR 3:010E	923	10-24-84	405 KAR 10:035E	388	7-16-84
Replaced	1006	1-7-85	Replaced	577	10-9-84
105 KAR 1:080E	535	8-31-84	405 KAR 16:020E	390	7-16-84
Replaced	616	11-13-84	Replaced	578	10-9-84
109 KAR 9:010E	1	6-15-84	405 KAR 30:015E	10	5-16-84
Replaced	93	8-7-84	Replaced		8-7-84
200 KAR 8:030E	1017	12-14-84	501 KAR 6:010E	10	5-16-84
201 KAR 9:021E	123	7-12-84	Replaced		6-28-84
Replaced	553	10-9-84	600 KAR 1:030E	536	8-28-84
Resubmitted	1115	12-14-84	Replaced	517	10-9-84
301 KAR 1:140E	692	10-2-84	601 KAR 1:015E	128	7-13-84
Replaced	620	11-13-84	Replaced	332	9-11-84
301 KAR 2:044E	387	8-1-84	601 KAR 1:130E	129	7-13-84
Replaced	422	10-9-84	Expired		10-30-84
301 KAR 2:200E	693	10-9-84	601 KAR 9:011E	130	7-13-84
Replaced	880	12-11-84	Replaced	335	9-11-84
302 KAR 16:010E	125	7-12-84	601 KAR 9:013E	130	7-13-84
Replaced	399	9-11-84	Replaced	240	9-11-84
302 KAR 16:020E	126	7-12-84	601 KAR 9:074E	131	7-13-84
Replaced	400	9-11-84	Replaced	581	10-9-84
302 KAR 16:030E	126	7-12-84	601 KAR 13:040E	134	7-13-84
Replaced	401	9-11-84	Replaced	335	9-11-84
302 KAR 16:040E	126	7-12-84	601 KAR 13:050E	135	7-13-84
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302 KAR 16:050E	127	7-12-84	601 KAR 35:010E	136	7-13-84
Replaced	324	9-11-84	Expired		10-30-84
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302 KAR 20:160E	3	6-5-84	601 KAR 35:040E	139	7-13-84
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302 KAR 20:170E	127	7-12-84	601 KAR 35:050E	139	7-13-84
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302 KAR 34:010E	128	7-12-84	602 KAR 15:020E	140	7-13-84
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302 KAR 34:020E	1018	11-15-84	603 KAR 5:130E	141	7-13-84
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401 KAR 30:070E	6	5-16-84	603 KAR 7:050E	143	7-13-84
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401 KAR 50:016E	7	5-16-84	603 KAR 7:060E	144	7-13-84
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402 KAR 3:010E	536	9-13-84	603 KAR 7:070E	144	7-13-84
Replaced	669	11-13-84	Replaced	350	9-11-84
405 KAR 1:015E	7	5-16-84	702 KAR 1:120E	697	9-21-84
Replaced		8-7-84	Replaced	671	11-13-84
405 KAR 3:015E	8	5-16-84	804 KAR 9:050E	144	7-11-84
Replaced		8-7-84	Replaced	361	9-11-84
405 KAR 7:015E	8	5-16-84	807 KAR 5:006E	924	10-23-84
Replaced		8-7-84	Replaced	1048	1-7-85

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Emergency Regulation	11 Ky.R. Page No.	Effective Date	Emergency Regulation	11 Ky.R. Page No.	Effective Date
815 KAR 7:080E	145	7-13-84	904 KAR 1:250E	28	5-16-84
Replaced	372	9-11-84	Replaced		6-28-84
900 KAR 1:011E	15	5-21-84	Resubmitted	947	10-19-84
Replaced	102	8-7-84	Replaced	856	12-11-84
900 KAR 1:030E	16	5-16-84	904 KAR 1:270E	1020	12-13-84
Replaced	103	8-7-84	Replaced	1012	1-7-85
900 KAR 1:040E	17	5-16-84	904 KAR 1:280E	1021	12-13-84
Replaced	103	8-7-84	Replaced	1013	1-7-85
900 KAR 3:010E	17	5-16-84	904 KAR 2:006E	948	10-19-84
Replaced		8-7-84	Replaced	858	12-11-84
902 KAR 1:340E	18	5-16-84	904 KAR 2:016E	159	6-20-84
Expired		9-29-84	Replaced	82	8-7-84
902 KAR 4:050E	18	5-21-84	Resubmitted	950	10-19-84
Replaced		6-28-84	Replaced	860	12-11-84
902 KAR 4:060E	19	5-21-84	904 KAR 2:020E	955	10-19-84
Replaced	104	8-7-84	Replaced	865	12-11-84
902 KAR 4:070E	19	5-21-84	904 KAR 2:115E	393	7-20-84
Replaced	104	8-7-84	Repealed	957	10-19-84
902 KAR 4:080E	20	5-21-84	904 KAR 2:116E	957	10-19-84
Replaced	105	8-7-84	Replaced	916	12-11-84
902 KAR 4:090E	147	6-20-84	904 KAR 2:140E	29	5-16-84
Replaced	105	8-7-84	Replaced		6-28-84
902 KAR 6:060E	537	8-27-84	Resubmitted	163	7-11-84
Replaced	374	9-11-84	Replaced	298	9-11-84
902 KAR 8:020E	20	5-21-84	Resubmitted	959	10-19-84
Replaced		7-10-84	Replaced	867	12-11-84
Resubmitted	538	9-13-84	904 KAR 2:150E	29	5-16-84
Replaced	653	11-13-84	Replaced		6-28-84
902 KAR 8:030E	21	5-21-84	Resubmitted	960	10-19-84
Replaced	106	8-7-84	Replaced	868	12-11-84
902 KAR 10:110E	149	6-20-84	904 KAR 2:160E	30	5-16-84
Replaced	107	9-11-84	Replaced		6-28-84
902 KAR 12:060E	22	5-21-84	904 KAR 2:170E	30	5-16-84
Replaced	108	8-7-84	Replaced		6-28-84
902 KAR 12:070E	23	5-21-84	Resubmitted	961	10-19-84
Replaced	108	8-7-84	Replaced	868	12-11-84
902 KAR 12:080E	24	5-21-84	904 KAR 2:180E	31	5-16-84
Replaced		6-28-84	Replaced		6-28-84
902 KAR 13:100E	393	8-2-84	Resubmitted	962	10-19-84
Replaced	526	10-9-84	Replaced	869	12-11-84
902 KAR 17:010E	1019	12-13-84	904 KAR 2:190E	31	5-16-84
Replaced	999	1-7-85	Replaced		6-28-84
902 KAR 20:006E	539	8-27-84	Resubmitted	962	10-19-84
Replaced	460	10-9-84	Replaced	870	12-11-84
902 KAR 45:130E	25	5-21-84	904 KAR 2:200E	32	5-16-84
Replaced	112	8-7-84	Replaced		6-28-84
902 KAR 45:140E	25	5-21-84	Resubmitted	963	10-19-84
Replaced	112	8-7-84	Replaced	871	12-11-84
902 KAR 50:090E	26	5-21-84	904 KAR 3:035E	163	6-20-84
Replaced	112	8-7-84	Replaced	89	8-7-84
902 KAR 50:100E	27	5-21-84	904 KAR 3:090E	32	5-16-84
Replaced	114	8-7-84	Replaced		6-28-84
904 KAR 1:004E	149	7-6-84	Resubmitted	165	7-11-84
Replaced	280	9-11-84	Replaced	302	9-11-84
Resubmitted	932	10-19-84	Resubmitted	963	10-19-84
Replaced	842	12-11-84	Replaced	872	12-11-84
Resubmitted	1117	1-4-85	904 KAR 5:100E	33	5-21-84
904 KAR 1:011E	936	10-19-84	Replaced	196	7-10-84
Replaced	846	12-11-84	904 KAR 5:130E	34	5-21-84
Resubmitted	1121	1-4-85	Replaced	197	7-10-84
904 KAR 1:020E	697	9-19-84	904 KAR 5:260E	36	5-21-84
Replaced	658	11-13-84	Replaced	304	7-10-84
904 KAR 1:036E	153	7-6-84	904 KAR 5:270E	165	7-6-84
Replaced	284	9-11-84	Replaced	375	9-11-84
Resubmitted	939	10-19-84	904 KAR 6:010E	36	5-21-84
Replaced	849	12-11-84	Replaced		6-28-84
904 KAR 1:045E	544	8-27-84	904 KAR 6:020E	37	5-21-84
Replaced	290	9-11-84	Replaced		6-28-84
904 KAR 1:055E	158	7-6-84	904 KAR 6:030E	37	5-21-84
Replaced	291	9-11-84	Replaced		6-28-84
904 KAR 1:061E	945	10-19-84	904 KAR 6:040E	38	5-21-84
Replaced	854	12-11-84	Replaced		6-28-84

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Emergency Regulation	11 Ky.R. Page No.	Effective Date	Regulation	11 Ky.R. Page No.	Effective Date
904 KAR 6:050E	38	5-21-84	1 KAR 1:010		
Replaced		6-28-84	Amended	169	
905 KAR 1:150E	39	5-17-84	1 KAR 3:005		
Replaced		7-10-84	Amended	609	
905 KAR 1:170E	166	6-20-84	Withdrawn		11-13-84
Replaced	115	8-7-84	Amended	983	1-7-85
905 KAR 1:180E	39	5-17-84	11 KAR 4:040	507	10-9-84
Replaced	116	8-7-84	11 KAR 5:020		
Resubmitted	544	8-27-84	Amended	1056	
Replaced	504	10-9-84	11 KAR 5:030		
905 KAR 5:030E	166	6-20-84	Amended	1058	
Replaced	116	8-7-84	11 KAR 5:060		
905 KAR 6:020E	40	5-17-84	Amended	1059	
Replaced		6-28-84	11 KAR 5:085		
905 KAR 6:030E	40	5-17-84	Amended	1060	
Replaced	117	8-7-84	11 KAR 6:010	508	10-9-84
905 KAR 7:010E	41	5-21-84	12 KAR 4:010		
Replaced		6-28-84	Repealed	509	11-13-84
905 KAR 7:020E	41	5-17-84	12 KAR 4:020		
Replaced	117	8-7-84	Repealed	509	11-13-84
905 KAR 7:030E	42	5-17-84	12 KAR 4:030		
Replaced		6-28-84	Repealed	509	11-13-84
Resubmitted	964	10-19-84	12 KAR 4:040		
Replaced	875	12-11-84	Repealed	509	11-13-84
905 KAR 7:040E	42	5-21-84	12 KAR 4:050		
Replaced		6-28-84	Repealed	509	11-13-84
905 KAR 7:050E	167	6-20-84	12 KAR 4:060		
Replaced	117	8-7-84	Repealed	509	11-13-84
905 KAR 7:060E	44	5-21-84	12 KAR 4:070		
Replaced		6-28-84	Repealed	509	11-13-84
905 KAR 7:070E	44	5-21-84	12 KAR 4:080	509	11-13-84
Replaced		6-28-84	12 KAR 4:090	510	11-13-84
905 KAR 7:080E	45	5-17-84	12 KAR 4:100	510	11-13-84
Replaced	118	8-7-84	12 KAR 4:110	511	11-13-84
Resubmitted	545	8-27-84	12 KAR 4:120	512	11-13-84
Replaced	505	10-9-84	12 KAR 4:130	512	11-13-84
Resubmitted	967	10-19-84	12 KAR 4:140	514	11-13-84
Replaced	877	12-11-84	12 KAR 4:150	515	
905 KAR 7:090E	167	6-20-84	Withdrawn		11-12-84
Replaced	118	8-7-84	12 KAR 4:160	516	11-13-84
905 KAR 7:100E	969	10-19-84	12 KAR 4:170	516	
Replaced	918	12-11-84	Amended	970	11-13-84
905 KAR 8:010E	46	5-16-84	12 KAR 5:020		
Replaced		6-28-84	Amended	612	11-13-84
905 KAR 8:020E	546	8-27-84	12 KAR 5:030		
Replaced	376	9-11-84	Amended	613	11-13-84
905 KAR 8:030E	46	5-16-84	12 KAR 5:040		
Replaced		6-28-84	Amended	615	11-13-84
905 KAR 8:040E	47	5-16-84	15 KAR 1:010		
Replaced		6-28-84	Amended	1061	
905 KAR 8:050E	47	5-16-84	40 KAR 2:010		
Replaced		6-28-84	Amended	52	7-1-84
905 KAR 8:060E	48	5-16-84	40 KAR 3:010	1006	1-7-85
Replaced	119	9-11-84	105 KAR 1:010		
905 KAR 8:070E	548	8-27-84	Amended	53	8-7-84
Replaced	530	10-9-84	105 KAR 1:080		
905 KAR 8:080E	48	5-16-84	Amended	616	11-13-84
Replaced		6-28-84	106 KAR 1:020		
905 KAR 8:110E	49	5-16-84	Amended	617	11-13-84
Replaced		6-28-84	106 KAR 1:040	879	
905 KAR 8:120E	49	5-16-84	Amended	1022	12-11-84
Replaced	414	9-11-84	107 KAR 1:040	665	11-13-84
905 KAR 8:130E	50	5-16-84	109 KAR 9:010	93	8-7-84
Replaced		6-28-84	115 KAR 2:020	306	
906 KAR 1:010E	50	5-16-84	Amended	550	10-9-84
Replaced	119	8-7-84	200 KAR 5:308		
906 KAR 1:020E	51	5-16-84	Amended	201	9-11-84
Replaced	120	8-7-84	200 KAR 8:030	1095	
			200 KAR 9:010		
			Repealed	1	6-15-84
			201 KAR 2:040		
			Amended	1125	

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Regulation	11 Ky.R. Page No.	Effective Date	Regulation	11 Ky.R. Page No.	Effective Date
201 KAR 2:135			301 KAR 1:075		
Amended	986	1-7-85	Amended	619	11-13-84
201 KAR 2:190			301 KAR 1:082		
Amended	1126		Amended	1127	
201 KAR 6:010			301 KAR 1:140		
Amended	987	1-7-85	Amended	620	11-13-84
201 KAR 9:018	1097		301 KAR 1:160	1217	
201 KAR 9:020			301 KAR 2:044		
Repealed	123	7-12-84	Amended	422	10-9-84
201 KAR 9:021	309		301 KAR 2:050		
Amended	553	10-9-84	Amended	735	12-11-84
Amended	1063		301 KAR 2:055		
201 KAR 9:023	311	10-9-84	Repealed	693	10-9-84
201 KAR 9:024	311	10-9-84	301 KAR 2:071		
201 KAR 9:025	312	10-9-84	Repealed	321	9-11-84
201 KAR 9:030			301 KAR 2:088		
Repealed	553	10-9-84	Repealed	693	10-9-84
201 KAR 9:031	313	10-9-84	301 KAR 2:140		
201 KAR 9:040			Amended	991	1-7-85
Repealed	553	10-9-84	301 KAR 2:180	666	11-13-84
201 KAR 9:041	314		301 KAR 2:190	321	9-11-84
Amended	554	10-9-84	301 KAR 2:200	880	12-11-84
201 KAR 9:050			301 KAR 3:070		
Repealed	553	10-9-84	Repealed	693	10-9-84
201 KAR 9:051	314		302 KAR 16:010	94	
Amended	555	10-9-84	Amended	399	9-11-84
201 KAR 9:060			302 KAR 16:020	94	
Repealed	123	7-12-84	Amended	400	9-11-84
201 KAR 9:061	315		302 KAR 16:030	95	
Amended	556	10-9-84	Amended	401	9-11-84
201 KAR 9:070			302 KAR 16:040	324	9-11-84
Repealed	553	10-9-84	302 KAR 16:050	324	9-11-84
201 KAR 9:071	316	10-9-84	302 KAR 20:150	95	
201 KAR 9:080			Amended	401	9-11-84
Repealed	123	7-12-84	302 KAR 20:160	95	
201 KAR 9:081	317		Amended	402	
Amended	557	10-9-84	Withdrawn		12-10-84
201 KAR 9:082	320	10-9-84	302 KAR 20:170	325	
201 KAR 9:085			Withdrawn		12-10-84
Repealed	123	7-12-84	302 KAR 34:010	96	
201 KAR 11:180	1215		Amended	402	10-9-84
201 KAR 13:040			302 KAR 34:020	1006	1-7-85
Amended	55	8-7-84	400 KAR 2:010		
Amended	732	12-11-84	Amended	171	8-7-84
201 KAR 13:050			400 KAR 2:030		
Amended	56	8-7-84	Amended	172	8-7-84
Amended	733	12-11-84	400 KAR 2:040		
201 KAR 20:210			Amended	173	8-7-84
Amended	989	1-7-85	400 KAR 2:050		
201 KAR 20:220			Amended	176	8-7-84
Amended	990	1-7-85	401 KAR 4:200		
201 KAR 22:010			Amended	176	8-7-84
Amended	734	12-11-84	401 KAR 5:010		
201 KAR 22:020			Amended	1128	
Amended	735	12-11-84	401 KAR 5:026		
201 KAR 22:031			Amended	424	
Amended	415	10-9-84	Amended	703	11-13-84
201 KAR 22:040			Amended	1132	
Amended	417	10-9-84	401 KAR 5:029		
201 KAR 22:052			Amended	1141	
Amended	417	10-9-84	401 KAR 5:031		
201 KAR 22:070			Amended	1144	
Amended	419	10-9-84	401 KAR 5:050		
201 KAR 22:106			Amended	737	1-7-85
Amended	420	10-9-84	401 KAR 5:055		
201 KAR 22:110			Amended	740	
Amended	422	10-9-84	Amended	1028	1-7-85
201 KAR 23:030			401 KAR 5:060		
Amended	201	9-11-84	Amended	756	1-7-85
301 KAR 1:055			401 KAR 5:065		
Amended	1065		Amended	765	1-7-85
301 KAR 1:016			401 KAR 5:070		
Amended	1126		Amended	773	1-7-85

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Regulation	11 Ky.R. Page No.	Effective Date	Regulation	11 Ky.R. Page No.	Effective Date
401 KAR 5:200			401 KAR 59:212		
Amended	177	8-7-84	Amended	779	1-7-85
Amended	1066		401 KAR 59:213	901	1-7-85
401 KAR 6:040			401 KAR 59:215		
Amended	1068		Repealed	902	1-7-85
401 KAR 6:200			401 KAR 59:216	902	1-7-85
Amended	178	8-7-84	401 KAR 59:220		
401 KAR 30:010			Repealed	903	1-7-85
Amended	202	10-9-84	401 KAR 59:221	903	1-7-85
401 KAR 30:070			401 KAR 59:275	905	1-7-85
Amended	179	8-7-84	401 KAR 59:280	906	1-7-85
401 KAR 31:040			401 KAR 59:300	907	1-7-85
Amended	210		401 KAR 59:305	908	1-7-85
Amended	560	10-9-84	401 KAR 61:165		
401 KAR 31:160			Amended	574	10-1-84
Amended	220	10-9-84	401 KAR 100:020	667	
401 KAR 31:170			Withdrawn		11-13-84
Amended	222	10-9-84	402 KAR 3:010	669	11-13-84
401 KAR 32:020			402 KAR 4:030		
Amended	226	10-9-84	Amended	1073	
401 KAR 32:050			402 KAR 4:190		
Amended	227	10-9-84	Amended	1158	
401 KAR 32:100	326		405 KAR 7:020		
Amended	568	10-9-84	Amended	228	10-9-84
401 KAR 49:010			405 KAR 7:030		
Amended	56	9-11-84	Amended	235	
401 KAR 49:020			Amended	576	10-9-84
Amended	58	9-11-84	405 KAR 10:035	331	
401 KAR 49:030			Amended	577	10-9-84
Amended	61		405 KAR 16:020		
Amended	403	9-11-84	Amended	237	
401 KAR 49:040	96	9-11-84	Amended	578	10-9-84
401 KAR 50:015			410 KAR 1:010	1218	
Amended	776		410 KAR 1:020	1222	
Amended	1045	1-7-85	501 KAR 6:010		
401 KAR 50:016			Amended	782	12-11-84
Amended	179	8-7-84	600 KAR 1:030	517	10-9-84
401 KAR 57:010			600 KAR 1:040	518	
Repealed	885	1-7-85	Amended	726	
401 KAR 57:011	885	1-7-85	Amended	970	11-13-84
401 KAR 57:035	887	1-7-85	600 KAR 1:050	520	
401 KAR 57:040	888	1-7-85	Amended	728	
401 KAR 59:035			Amended	973	11-13-84
Repealed	889	1-7-85	600 KAR 1:060	523	
401 KAR 59:036	889	1-7-85	Withdrawn		11-12-84
401 KAR 59:048			600 KAR 1:070	523	10-9-84
Repealed	890	1-7-85	Amended	1074	
401 KAR 59:049	890	1-7-85	600 KAR 2:010	1097	
401 KAR 59:099	891	1-7-85	600 KAR 2:020	1098	
401 KAR 59:100			600 KAR 2:030	1099	
Repealed	891	1-7-85	600 KAR 2:040	909	12-11-84
401 KAR 59:130			601 KAR 1:015	332	9-11-84
Repealed	893	1-7-85	601 KAR 1:130	334	
401 KAR 59:131	893	1-7-85	Withdrawn		9-5-84
401 KAR 59:135			601 KAR 9:011	335	9-11-84
Repealed	894	1-7-85	601 KAR 9:013		
401 KAR 59:136	894	1-7-85	Amended	240	9-11-84
401 KAR 59:140			601 KAR 9:074		
Repealed	895	1-7-85	Amended	241	
401 KAR 59:141	895	1-7-85	Amended	581	10-9-84
401 KAR 59:145			601 KAR 13:040	335	9-11-84
Repealed	896	1-7-85	601 KAR 13:050	337	
401 KAR 59:146	896	1-7-85	Amended	584	
401 KAR 59:170			Amended	699	10-9-84
Repealed	897	1-7-85	601 KAR 35:010	338	
401 KAR 59:171	897	1-7-85	Withdrawn		9-5-84
401 KAR 59:195			601 KAR 35:020	339	
Repealed	899	1-7-85	Amended	585	10-9-84
401 KAR 59:196	899	1-7-85	601 KAR 35:040	341	
401 KAR 59:200			Amended	587	10-9-84
Repealed	900	1-7-85	601 KAR 35:050	343	
401 KAR 59:201	900	1-7-85	Amended	587	10-9-84

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Regulation	11 Ky.R. Page No.	Effective Date	Regulation	11 Ky.R. Page No.	Effective Date
602 KAR 15:010			704 KAR 6:011	1108	
Amended	244	9-11-84	704 KAR 7:050	1109	
Amended	1074		704 KAR 7:060	1110	
602 KAR 15:020	344		704 KAR 10:022		
Amended	549	9-11-84	Amended	253	10-9-84
603 KAR 3:051			Amended	1078	
Amended	450	10-9-84	704 KAR 15:090		
603 KAR 4:035			Amended	1162	
Amended	246		704 KAR 20:005		
Amended	588	10-9-84	Amended	254	10-9-84
603 KAR 5:030			704 KAR 20:035		
Amended	994	1-7-85	Amended	624	11-13-84
603 KAR 5:050			704 KAR 20:045		
Amended	1159		Amended	625	11-13-84
603 KAR 5:061	1223		704 KAR 20:050		
603 KAR 5:120	1225		Amended	627	11-13-84
603 KAR 5:130	345		704 KAR 20:051		
Withdrawn		8-27-84	Repealed	625	11-13-84
603 KAR 5:140	670		704 KAR 20:060		
Withdrawn		11-14-84	Amended	628	11-13-84
603 KAR 5:150	1100		704 KAR 20:065		
603 KAR 5:160	1101		Amended	629	11-13-84
603 KAR 7:020	346	9-11-84	704 KAR 20:070		
603 KAR 7:030	347	9-11-84	Amended	255	9-11-84
603 KAR 7:040	348	9-11-84	Amended	630	11-13-84
603 KAR 7:050	349	9-11-84	704 KAR 20:076		
603 KAR 7:060	349	9-11-84	Amended	255	9-11-84
603 KAR 7:070	350	9-11-84	704 KAR 20:078		
603 KAR 8:010	1103		Amended	256	9-11-84
605 KAR 1:150	524	10-9-84	704 KAR 20:080		
701 KAR 5:060	1105		Amended	257	9-11-84
702 KAR 1:005			Amended	631	11-13-84
Amended	180	8-7-84	704 KAR 20:085		
702 KAR 1:115	351	9-11-84	Amended	632	11-13-84
702 KAR 1:120	671	11-13-84	704 KAR 20:090		
702 KAR 3:100			Amended	258	10-9-84
Amended	249	9-11-84	Amended	633	11-13-84
702 KAR 3:190	352		704 KAR 20:120		
Amended	591	10-9-84	Amended	634	12-11-84
702 KAR 4:030			704 KAR 20:145		
Amended	249		Amended	635	11-13-84
Withdrawn		10-5-84	704 KAR 20:150		
702 KAR 4:050			Amended	636	11-13-84
Amended	1160		704 KAR 20:159		
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